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***San Antonio v. Rodriguez:* Understanding Texas School Finance  
History Through a Latino Critical Race Theory Framework**

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***San Antonio v. Rodriguez: Understanding Texas School Finance History***  
**Through a Latino Critical Race Theory Framework**

**by**

**Erin Denise Atwood, B.S. Ed.; M.A.**

**Dissertation**

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## **Dedication**

For Arthur Gochman, 1931-2010,

and for

Demetrio Rodriguez, Alberta Snid, and everyone who has worked to improve the school  
finance system for all the children of Texas



## Acknowledgements

**King Arthur:** We are all Britons. And I am your king.

**Woman:** I didn't know we had a king. I thought we were an autonomous collective.

**Dennis:** You're foolin' yourself! We're living in a dictatorship. A self-perpetuating autocracy in which the working class...

**Woman:** Oh, there you go bringing class into it again.

**Dennis:** Well, that's what it's all about!

*(Monty Python and the Holy Grail, 1975)*

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***San Antonio v. Rodriguez:* Understanding Texas School Finance History  
Through a Latino Critical Race Theory Framework**

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The current economic conditions in the United States have contributed to budgetary cuts to public education at both the federal and state levels. This attention to educational funding and political decisions regarding spending are linked to beliefs about what is valued in education and what proper policy solutions exist. Yet, contemporary actions and issues do not exist in isolation. These economic difficulties are situated in a specific context, history, and have been shaped by political ideologies. This dissertation is directly focused on critically examining the history and context of school finance policy.

School finance policy has been an important political issue for over 40 years, beginning with the *San Antonio Independent School District v. Rodriguez* case (Koski & Levin, 2000). This case was first filed in 1968 and serves as the unit of analysis for this

study. While much of the body of work regarding school finance is framed according to traditional economic methods and beliefs, this study is a historic narrative that utilizes critical policy analysis to examine educational funding. Though *Rodriguez* was a case filed by Mexican American parents on behalf of students in the Edgewood school district, which served a student population that was over 90% Latino, Mexican Americans and the voices of Mexican Americans were glaringly absent from the arguments made in court. This absence of race marks a need for critical policy analysis and work that calls attention to this silent area of political discourse.

The purpose of this paper is to examine the inclusion and exclusion of race in the *Rodriguez* case to find out what is missing from the dominant narratives of school finance and begin to understand how current policies continue to ignore race. Historic methods, guided by a Latino Critical Race Theory (LatCrit) framework, are employed to analyze archival records, newspaper articles, legal documents, and oral histories. Narratives reveal themes of the social context that lead to legal action, the language used in the courts cases, and the lasting implications for continued understandings of school finance policy.

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## CHAPTER 1: INTRODUCTION

*“In order to get beyond racism, we must first take account of race. There is no other way.” Justice Harry Blackmun, Regents of University of California v. Bakke (1978)*

*“Perhaps no area of schooling underscores inequity and racism better than school funding” (Ladson-Billings, 1998, p. 20).*

School finance has been a significant policy issue in Texas for over 40 years now (Koski & Levin, 2000). For those familiar with it, thoughts of Texas school finance policy likely evoke the current system of recapture and many years of litigation. The term “recapture” refers to the practice of collecting money from property wealthy school districts and redistributing it to property poor school districts. After many cycles through the state court system, recapture became an equalizing component of the school finance system through SB 7 in 1993 and was constitutionally upheld as an answer to claims of funding inequity by the Texas Supreme Court in 1995 (TEA, 2001). While this marked the start of recapture and remains the current system of finance in Texas, problematic funding gaps persist, particularly for Latino students and other students of color (Alemán, 2007; Education Trust, 2005).

To understand school finance as an issue of educational equity, we must first examine the historic events that have lead to the current finance system in Texas. This issue gained national prominence in 1968 with *San Antonio Independent School District*

*v. Rodriguez*<sup>1</sup>, which challenged the unequal funding system in the state of Texas. The landmark case made its way to the U.S. Supreme Court in 1972, resulting in a majority opinion that education is not a federal right and that the plaintiffs did not make an adequate argument for protection under the 14<sup>th</sup> amendment. In examining this case from its initial filing through the Supreme Court ruling, we discover a lack of attention to Mexican Americans and that the voices of Mexican Americans are glaringly absent. Indeed, the Supreme Court ruling did not mention that *Rodriguez* was a case filed by Mexican American parents on behalf of students in the Edgewood school district, which served a student population that was over 90% Latino. Legal arguments were made in this case on behalf of the poor, but not on behalf of Mexican Americans.

The court rulings, however, are not the only examples of color-blindness with regard to Texas school finance. Paul Sracic's book, *San Antonio v. Rodriguez and the Pursuit of Equal Education* is an excellent political history of the case and the legal arguments presented (2006). However, while Sracic links *Rodriguez* to the broader context of school finance litigation and cases regarding the 14<sup>th</sup> amendment, he does little to contextualize this case as a Mexican American issue. Additionally, works such as *Let All of Them Take Heed* by Guadalupe San Miguel, Jr. (1987) attend to Mexican American activism and involvement in litigation in pursuit of obtaining educational equality. While this work is centered on Mexican American experiences, it lacks attention to issues of school finance, instead focusing on legal battles of segregation and bilingual

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<sup>1</sup> Afterwards referred to as *Rodriguez*.

education.<sup>2</sup> In this dissertation, I focus on the inclusion and exclusion of race in the policy discourse of Texas school finance, specifically in the *Rodriguez* case. By doing so, I intend to expand the discourse on the economics of education and traditional economic treatments of school funding to include context and attention to subtle forms of racism imbedded within policy and policy development processes. While finance is often discussed according to economic or legal perspectives, race is an aspect that is significant but neglected in these conversations. Because of this, I am examining the ways that race is included and excluded in the *Rodriguez* case to find out what is missing from our understandings about school finance.

Historic methods, guided by a Latino Critical Race Theory (LatCrit) framework (Alemán, 2007; Delgado Bernal, 2002; Espinoza & Harris, 1996; Haney-Lopez, 1996), are employed to analyze archival records, newspaper articles, legal documents, and oral histories. This type of analysis should reveal themes of the social context that lead to legal action, the language used in the courts cases, and the lasting implications of the final court ruling. It should also reveal what is missing from dominant narratives about Texas school finance and how these narratives have been constructed, which are both necessary in order to understand how current policies and policy discourses ignore race.

### **Rationale for this Research**

Attention to the improvement of educational funding does not necessarily pay attention to issues that really matter for students of color, as race itself is often neglected

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<sup>2</sup> Sracic includes a few sentences directing “those with an interest in Mexican American education and politics” (p. 161) to additional references. For a book that spans over 70 years, San Miguel dedicates only three pages to the discussion of the formation of MALDEF, and their first major case—*Rodriguez*.

in these conversations. Most literature regarding school funding and equity relies on traditional economic measures and analysis or objective legal narratives. This application of economics and law is problematic because it involves a positivistic, rational approach that neglects important social and cultural issues (Fisher, 2003). Finance solutions based on economics do not meaningfully attend to race since their definitions of equity are typically based on economic principles rather than on ideals of social justice. This dissertation critiques rationality and objectivity as the foundations for knowledge formation in economic thought and as the basis of neutral notions of school law.

School finance policy relies heavily on rational economic theory (Becker, 1964; Brewer, Hentschke, & Eide, 2008) that examines inputs and outputs to determine costs and benefits but largely dismisses issues of social equity as an externality (Hanusheck, 1997). In contrast, this dissertation is centered on race. One goal of this dissertation is to establish a rationale for re-casting understandings of school funding in terms of Critical Race Theory (CRT) and Latino Critical Race Theory (LatCrit) frameworks (Lawrence, Matsuda, Delgado, & Crenshaw, 1993; Delgado Bernal, 2002; Espinoza & Harris, 1996) and then to provide such a re-casting using historic archival data and oral histories. These frameworks attend to issues of voice and marginalization that are too often left out of the decision-making calculus of more rational political approaches.

Geographic housing patterns connect to issues of race and poverty (Orfield 2002; Quadagno 1994), which all connect to school attendance zones and school quality. In considering current school finance policy, it is important to recognize that funding has improved for poor students of color since the system was first challenged in the courts

(Koski & Levin, 2000; EdTrust, 2005). Gaps remain, however, and it is also important to recognize that formulaic adjustments that consider poverty, without also considering race, do not go far enough to address the serious, systemic issues of social inequities. While school finance policy in Texas may support some version of equal opportunity, it does very little to address historic racism or to accomplish equity. Fiscal neutrality that creates equity in taxation may have been achieved (Coons, Clune, & Sugarman, 1970), but this should not be our goal. Wealth still has the power to determine school quality in Texas, and working to accomplish equity and adequacy for Texas students remains an important challenge.

### **Theoretical Framework**

While the theoretical framework guiding this dissertation will be discussed in further detail in the next chapter, it is important to outline general theoretical principles here. This research utilizes a Latino Critical Race Theory framework. This perspective grew out of more general Critical Race Theory, which, in turn, was influenced by critical legal theory and radical feminism (Delgado & Stefancic, 2001; Solórzano & Yosso, 2002). This framework scaffolds our understanding because it calls attention to a non-traditional perspective that emphasizes racism and the role that racism plays in policies such as those related to school funding.

Proponents of CRT generally agree that racism is endemic in American society, that notions of color blindness, objectivity, and meritocracy should be challenged, that culture and history are important, that experiential knowledge should be valued, that it uses interdisciplinary approaches, and that it works towards eliminating all forms of



oppression (Lawrence, Matsuda, Deldago, & Crenshaw, 1993). As an out growth from CRT, LatCrit holds these tenets but also assumes a uniquely Latino perspective on issues of race. LatCrit should be viewed as complimentary to CRT, not an attempt to displace its tenets (Alemán, 2007). In addition to the core idea of CRT, LatCrit advocates its own assumptions. Specific tenets include attention to the racialization of Latinos in the United States, the intersectionality of language, culture, nationality, and gender in Latino identity (Delgado Bernal, 2002), a need to broaden the “black-white dichotomy” of racial discussions in this country (Parker, 1998; Espinoza & Harris, 1996), and recognition of the historical and cultural differences among Latinos and between Latinos and other groups of color (Nuñez, 1999). Together, these views and assumptions offer ways of seeing and examining school finance.

### **Plan of Study**

The methodological tools for this study of Texas school finance include historic comparative methods and critical discourse analysis. The intent of this project is to examine the ways that race is included or excluded from school finance policy. In realizing this purpose, I will examine the socio-political context that existed before the case was initially introduced, the language used in the courts, and the implications of the final ruling. My research questions are:

Research Question1: What factors prompted the *Rodriguez* suit against the district?

Research Question 2: How was race discussed in the *Rodriguez* case? This includes attention to official language in court and policy documents as well as in social contexts.

## **Sources**

Essentially, historic research or textual analysis draws on qualitative methods. While much of qualitative work utilizes interviews and observation as well as documents, historians often only have access to records and documents of lived experiences of the past. Thus, texts themselves are at the heart of histories. Understanding the context of production and purpose of the text is important, as well recognizing which texts endure as a legitimization of power. “Text and context are in a continual state of tension, each defining and redefining the other, saying and doing things differently through time” (Hodder, 2000, p. 704). While material evidence provides insight into components of lived experience, there are no truths to uncover in archives. A dialectical relationship exists between the context of material and context of the analyst.

Historic methods rely heavily on document analysis, thus careful attention was first given to locating these texts. Primary archival sources, including the papers of Charles Allen Wright, the lead attorney for Texas in the case, and Edgewood superintendant Jose Cárdenas, court documents such as the facts of the cases, majority and dissenting opinions from judges, amicus briefs and deposition, activist or policy groups including the Mexican American Youth Organization (MAYO), Intercultural Research Development Association (IRDA), and newspaper articles from papers in San Antonio and national papers have all been identified and were collected for this study.

In addition to the use of documents and archives, oral histories were collected. Oral history consists of in-depth interviews that provide inside perspectives into lived experiences. These oral histories were conducted to understand the case from the perspective of those who were a part of it and added key information to the narrative of the case that was not available in other sources of data. Not all key participants or groups have archives due to factors of funding, their perceived importance, and durability of related information. Archival sources that exist tend to favor important figures and official legal documents over the everyday experiences of ordinary people involved. Oral histories offer a way to get at these experiences. Lead plaintiff Demetrio Rodriguez and lawyers, Mark Yudof and Al Kauffman, as well as other community figures were all included as oral history participants.

### **Analysis**

“Many qualitative researchers who use written texts as their materials do not try to follow any predefined protocol in executing their analysis. By reading and rereading their empirical materials, they try to pin down their key themes and thereby, to draw a picture of the presuppositions and meanings that constitute the cultural world of which the textual material is a specimen” (Peräkylä, 2008, p. 352). Texts were carefully read and critically analyzed using the tenets of CRT and LatCrit as a guiding framework. From this analysis, themes of context, economics, and activism, as well as how race was discussed, emerge. Additional critical policy analysis informed by LatCrit principles also generated analytical themes of interest convergence and incrementalism, property and issues of problem definition.

## Implications

Gloria Ladson-Billings writes that, “Perhaps no area of schooling underscores inequity and racism better than school funding” (1998, p. 20). This issue is significant because the way schools are funded has a tremendous impact on the quality and adequacy of education that a school can provide its students. If we believe that one purpose of schooling should be to educate all students, then attention must be given to the political histories that continue to shape contemporary discourses.

In Texas, the courts have had a role in school finance policy for over 40 years, and while there are noted legal “victories” for low-income students and students of color, inequity and inadequacy persist in the ways that schools are funded. LatCrit provides a way to go beyond traditional rational understandings of school finance and to critically examine issues of race, context, and the policy discourse. Additionally, Texas now has more Latino students enrolled in public schools than any other student population, and examining school finance from a Latino Critical Race Theory perspective is needed to understand how these finance policies could be changed to better meet the needs of a diverse student population.

This historic analysis of the *Rodriguez* case is important in a contemporary context because the racial inequities continue to exist and policy language still fails to meaningfully attend to issues of race. *Rodriguez* simply set the stage for our ongoing problems regarding how to fund schools in equitable ways. While economic and legal histories are important for understanding school finance, LatCrit provides another way

for centering discussions around the racism embedded within policies and for providing a more complete picture of the history and context of issues like school finance.

### **Limitations**

There are three main limitations to this research. First, LatCrit and CRT are not common ways of analyzing school finance and policy. With the exception of Alemán's work (2007; 2006; 2004), there is virtually no scholarship using LatCrit and CRT in this manner. Therefore, there is little guidance for this research and little foundational understanding for readers to build from. Additionally, as with any historic or qualitative research, there are limitations surrounding interpretations of data. It is quite possible that other researchers could come to different understandings, even using the same data sources or research topic. Further, while this study has no intention of generalizability, over-interpretation on the part of the researcher or reader is possible. Finally, this research is also limited by the quality and availability of archival data, like any historic research.

### **Overview**

Chapter 1 presents a rationale for using a CRT/LatCrit framework to examine race in the context of the *Rodriguez* school finance case. Chapter 2 provides an overview of relevant literature in the areas of economics of education, school finance law, and the history of educational issues for Latino students in order to explain the ways that these pieces intersect in the context of this study. Additionally, I articulate the foundations of a LatCrit framework and describe how it is applicable as the conceptual guide for this research. Chapter 3 lays out the overarching research framework and specifies how

archival methods and oral history will be employed. Chapter 4 includes the findings of this research, presented as narratives and themes. A separate section dedicated to critical policy analysis and discussion comprises Chapter 5. Finally, Chapter 6 concludes with the implications and a summary of the study.

## **CHAPTER 2: REVIEW OF LITERATURE AND THEORETICAL FRAMEWORK**

### **Structure of Chapter**

This chapter consists of two major sections. The first section provides an overview of relevant literature that has shaped the way that I conceptualize and developed my research topic. This section also conveys how these areas of literature intersect and why further exploration of this intersection is necessary. The second section articulates my conceptual framework of Latino Critical Race Theory. I explain the general tenets of CRT and LatCrit and provide an overview of the evolution of these frameworks.

### **Review of Literature**

#### **Economics of Education**

Most school finance literature stems from economic roots and employs traditional economic methods of analysis. One main area of study debates how much funding schools require to efficiently educate students. Cost-benefits analysis has been used to argue for increased funding for “at risk” students (Levin, 1989; Levin, 2009) and for implementing the most cost effective programs (King Rice, 1997). Educational productivity studies emphasize measuring efficient expenditures that produce returns in the form of increased test scores (Hanusheck, 1986; Monk, 1992; and Greenwald,

Hedges, & Laine, 1996) with some calls for a better understanding of how the cost of education has risen (Rothstein & Miles, 1995) and for considering how legislated programs like special education have changed overall expenditures in education (Lankford & Wyckoff, 1995). Similarly, examination of inputs and outputs relies heavily on regression analysis to make statistical predictions regarding educational spending (Hanusheck, 1989; Hanusheck & Rivkin, 1997). Since the *Serrano v. Priest* decision in California in 1971, the redistribution of state and local funding has become another major area of study offering an economic understanding of equity, adequacy, and the legal history of school finance reform (Corcoran, Evans, Godwin, Murray, & Schwab, 2003; Baker & Green, 2005).

Heavily reliant on statistical analyses, these traditional economic studies present conflicting results. Studies support or argue against funding increases, often depending on the selection or estimation of variables, methods, or analysis employed. For example, Levin (2009) examines the cost effectiveness of increasing high school graduation rates in terms of benefits to U.S. taxpayers. In this longitudinal regression analysis, he concludes that improving “educational justice” does provide beneficial returns on the investment in educational adequacy though decreased spending on health care, the criminal justice system, and public assistance. Counter to this, Hanusheck and Loeb (2008) critique the use of cost function as a method for estimating educational adequacy. These authors claim that this method often uses flawed educational spending estimates rather than actually measuring the cost of achieving desired educational levels. Further, they object to the tendency of using such studies to extrapolate beyond any evidence



provided by cost function analysis. This discussion of appropriate methods and variables continues to exclude non-statistical ways of thinking about social and political issues. Rather than trying to improve methods or better quantify these variables, our understanding of school finance issues might be better served from conducting research that employs alternative perspectives and critical policy analysis.

Contrasting the idea of capital from economic and critical lenses provides an opportunity to examine the differences between these perspectives. The traditional economic understanding studies human capital as a work place variable premised on individual-level preparation to participate in the market economy (Rosen, 1972). This definition stands in contrast to understandings of cultural capital as a social construction and a source of wealth that traditionally marginalized people possess (Yosso, 2005). Conducting a critical examination extends our perspectives on funding education beyond traditional economic understandings by including culture, voice, and lived experiences in the dialogue of school finance policy.

### **School Finance Legal History**

In addition to examining school finance from an economic perspective, attending to political history and litigation offers another lens for understanding. This section offers a traditional history of the Texas school finance system and is not intended to be a comprehensive representation of the legal aspects of school finance across the United States.

**Formation of the Texas Republic.** Texas declared its independence from Mexico in March of 1836. Included in this declaration was condemnation of the lack of education in the state.

It (Mexico) has failed to establish any public system of education, although possessed of almost boundless resources, (the public domain), and although it is an axiom in political science, that unless a people are educated and enlightened, it is idle to expect the continuance of civil liberty, or the capacity for self government (Eby, 1954).

As an independent country, the new Texas constitution stated “It shall be the duty of congress, as soon as circumstances permit, to provide by law a general system of education” (Mohler, 1998, p 38). While there seems to be a dedicated intent to establish a system of public education, finding the necessary funds was challenging from the beginning. With urging from President Lamar, the Texas Congress passed the Education Act of 1839. This law provided each county with designated land, intending that local governments should use it to develop a school (Mohler, 1998). Other than providing a location for schools, the nation did little else to ensure that counties followed through with the promise of education.

**State education system.** In 1845, Texas became part of the United States. In Article 10, Section 1 of the new state constitution, education again garners attention with the phrase “A general diffusion of knowledge being essential... it shall be the duty of the legislature to make suitable provision...” In Section 2, there is language establishing free schools that will be supported through property taxes and the creations of “a perpetual”

fund for schools. Again, in spite of explicitly written expectations for education, little action was taken to establish schools until 1854 and the Common School Act. Governor Pease created what became known as the Permanent School Fund (Latino Education Policy in Texas, n.d.) apportioning funds based on an annual census and initially spending 62 cents per student (Texas Almanac). The law also provided full tuition for “children of paupers”. Many believed that free instruction should be provided only to orphans and the children of indigents (Eby, 1954). Eby suggests that one of several weaknesses was that the population of poor pioneers felt they had been “promised a school system without fees or taxes, wholly supported by the bounty of the state. Many felt the state was not making good on this high ideal” (p. 43).

A new state constitution was drawn following the Civil War. In part, it further stipulated how, “the fund and income from the fund were to be used exclusively for the education off all the white scholastics of this State” (Mohler, p. 51) and suggested taxes collected from “Negroes should be utilized for children of African descent” (Eby, p 44). The federal government nullified this Constitution and enacted another state Constitution in 1868. This document outlined for a “system of public free schools... for all inhabitants of this State between the ages of six and eighteen” (Swindler, 1979, p. 309) and made school attendance compulsory (Mohler, p. 55). In this new system, funds were generated through income from the permanent fund, general taxation, a poll tax of one dollar on every voter between 21 and 50 years of age, local taxation amounts “as will be necessary to provide the necessary schoolhouses in each district and insure the education

of all the scholastic inhabitant both black and white” for ten months each year (Mohler, 1998, p. 57).

The constitution changed again after Reconstruction, removing many of the provisions instituted by the Texas federal government, including compulsory attendance, county districts, local taxation for the building of schoolhouses, and the stipulation of establishing a uniform system of free schools throughout the state was also removed (Mohler, p. 58). This constitution also authorized Independent School Districts to form in incorporated cities. While this advanced educational opportunities for city children, no additional provisions were made for rural children, who comprised 70% of the state population. The control of the schools was placed in the hands of the city councils and required two-thirds vote from taxpayers to impose a tax for school purposes (Latino Education Policy in Texas, n.d.).

Between, 1876 and 1884 indecision and confusion regarding the state’s educational system reigned (Eby, 1954, p. 48). A joint resolution adopted in 1883 altered state revenue for schools by replacing general revenue with one fourth of revenue generated by state occupation taxes and by creating an ad valorem tax not too exceed \$.20 per \$100.00 of valuation and requiring approval of 2/3 of the voters. This policy maintained the collection of poll taxes. Few changes occurred to the education system during the next twenty years in Texas education.

In 1900 there were 526 Independent School Districts in the state of Texas (Texas Education Agency, 2004) and 11,460 rural (common) school districts in Texas. A report issued in 1904 noted, Texas ranked 37<sup>th</sup> in per capita student spending, 38<sup>th</sup> in the

enrollment of students, and 42<sup>nd</sup> in the required number of days school instruction (Latino Education Policy in Texas, n. d.). The study encouraged policymakers to form The Conference for Education in Texas, resulting in three major changes to the education system. First, the school funding from taxes was extended to common schools, instead of just independent school districts. Additionally, changes to taxation now required approval from a simple majority rather than by 2/3 vote. Finally, the tax rate cap was increased from \$.20 to \$.50. The amendments were passed by approval of better than 70% of the voters (Mohler, 1998, p. 65).

The 35<sup>th</sup> Legislature, in 1917 began to provide textbooks for schools (Eby, 1954, p. 54). By 1919, the 36<sup>th</sup> Legislature raised the local property tax to \$1.00 (Mohler). Texas reinstated compulsory attendance in 1915, with students required to attend 100 days in the 1918-19 school year (Eby, 1954). In spite of this, significant issues during the first three decades of the twentieth century further eroded the dollars spent on education. Building deterioration, compulsory education, and the Great Depression all contributed to the problems in funding the educational system. Traditional revenue sources were no longer adequate, and new revenues were collected from intangibles, liquor, tobacco, and oil and gas.

**Gilmer-Aiken Laws.** In 1949, the 50<sup>th</sup> session of the Texas Legislature adopted a comprehensive system for funding schools statewide. This important piece of legislation, known as the Gilmer-Aiken Laws, created a system that created revenue from both state and local taxes and as well as state funding formulas for the allocation of these revenues. In effect, the state of Texas could generate a pool of money to be used to fund all schools

in the state. This state foundation money could be supplemented with local tax dollars for education. Though revolutionary at the time, local districts did not have the same access to local revenue sources. It was this inequality in local tax contributions to local schools that ultimately lead to litigation.

***San Antonio ISD v. Rodriguez.*** The first Texas case to center around Texas school finance was *San Antonio ISD v. Rodriguez* (1973). Essentially, the Texas funding system at the time of the *Rodriguez* case was based entirely on a contribution from the state and the local property taxes that were locally controlled and levied. This system lead to drastic differences in school wealth, with wealthier areas being able to collect and spend more money for education, often while maintaining low tax rates. The lawyers for the plaintiffs made this argument to the federal Supreme Court. First, they claimed that the equal protection clause of the 14<sup>th</sup> Amendment guaranteed education as a fundamental right. Second, they argued that this educational and financial neglect equated to treatment of Latino and poor families as a “suspect class”. This argument emphasized that a reliance on property taxes as the means of funding education benefited the affluent and disadvantaged the poor families. Though this argument had success in lower courts, the Supreme Court overturned the case 5-4, disagreeing with the legal line of reasoning. The Court found that inequality in the finance system did not violate federal law. This landmark case relegated educational lawsuits to state courts, declaring that education should be decided by the states instead of the federal court system. Because of this interpretation, the federal Court did not require the state of Texas to equalize funding or subsidize money for poor districts.

***Edgewood cases.*** Rather than viewing this decision as a crushing defeat, *Rodriguez* became a starting point for the vast number of legal cases involving school finance that followed, even though the federal courts decided there was no Constitutional obligation for equitably distributed funds in education. The federal court had ruled that the base contribution from the state of Texas provided an “adequate” floor for education, introducing adequacy as a legal issue with regard to school finance. Further, the *Rodriguez* case established the assumption that “dollars make a difference in educational outcomes, that courts and policy makers can develop standards for what is an ‘adequate’ education, and that litigation will lead to equity in educational finance” (Koski & Levin, 2000, p. 480).

Following the *Rodriguez* decision, the Edgewood school district pursued other legal options through the state courts. The *Edgewood* cases brought about the policy of recapture. *Edgewood I* was filed in 1984, but the final ruling did not come about until 1995. Collectively, these cases attacked the state’s policies of funding education and used the state constitution for outlining the educational obligations of the state. *Edgewood I* pointed out that there were enormous funding disparities between the school districts in Texas. When the case was first filed, there was a 700 to 1 ratio between the value of taxable property in the wealthiest and poorest districts, and district spending per student varied from \$2,112 to \$19,333 (Kirby, 2007). The state court agreed that these gaps violated the Texas constitutional requirement of establishing an efficient system of education. According to constitutional mandate, the legislature had to make “suitable” provision for an “efficient” system for the “essential” provision of a “general diffusion of

knowledge” (Kirby, 2007). Further, there must be a direct and close correlation between a district’s tax effort and the available educational resources. Districts across the state must have substantially equal access to similar revenues per pupil at similar levels of tax effort (Kirby, 2007; Reschovsky & Imazeki, 2000).

In 1990, the state Legislature required four special sessions beyond the regular session to develop and agree upon a plan to meet this court ruling. The first special session ended with a proposal that passed in the Senate, but not in the House. The output of sessions two and three were both vetoed by Gov. Bill Clements. The last special session resulted in Senate Bill 1. This plan created “fiscal neutrality” or equity for 95 % of students, but excluded those living in the wealthiest 5% of districts. Essentially, the richest areas did not have to concede any of their existing funds. This plan did allow for property poor districts to gain “substantially equal access” to “equal effort” revenues. However, there were no caps set for taxation and no redistribution of funds at this time. Equalization came instead through more state aid for certain districts. Poor district such as Edgewood ISD challenged this plan, and the Texas courts agreed that this did not meet the requirements. SB 1 was unanimously struck Down in January 1991. Because of delays in developing the first plan, the courts set a two-month deadline for constructing a new system of school finance. Basically, SB1 was an improvement over the previous system, but the same deficiencies in the system were still present. Additionally, there was no legal justification for excluding the wealthiest residents, and systems that rely on property taxes needed to charge people at reasonably similar rates (Kirby, 2007).



The 1991 Legislative session took a different route and opted for creating the consolidation of taxation areas with SB 351. These 188 County Education Districts (CED) provided a mechanism with wealth equalization within the CED area, but this plan was also challenged. This time, however, the challenge came from Carrollton-Farmers Branch ISD and other wealthy school districts. The provisions in SB 351 had required these districts to dramatically increase their tax rates. This phase of the cases was not about equity at all, but rather a challenge to the constitutionality of the CED system. In January of 1992, the Texas Supreme Court ruled that this was also an unconstitutional plan. The creation of the CEDs did not allow for local governments to have “meaningful discretion” in establishing their own taxation levels. Without this ability, the state had in effect created a state-imposed system of taxation, which is expressly forbidden in the Texas Constitution, unless agreed upon by a vote. The courts again set a deadline, June 1993, for the Legislature to create yet another plan for financing education (Kirby, 2007).

This time the state’s elected officials placed three constitutional amendments on the election ballot. These provisions would have created funds for financing school facilities, eliminated unfunded mandates, and established a redistribution system (much like the previous CED), but Texas voters defeated all three amendments. With less than a month left on the deadline, SB 7 was signed into law and established the current system of recapture. Once again, this system was challenged in the courts. Poor districts were against the plan because it did not eliminate the funding gaps, while rich districts opposed the plan because they still thought the state was effectively setting the tax rate. Despite these arguments, the constitutionality of this plan was upheld. The final ruling stated that

the state is only required to provide an “efficient” system that provides for a “general diffusion of knowledge”. These terms indicate that a finance system could be constitutional without creating equity, equality of funding, or access to educational offerings in excess of what may be construed as a good, though not necessarily excellent, level of education. The ruling clarified that the state was not setting the tax rate (even though SB 7 established both a minimum taxation level and a tax cap) because local voters must still approve actual tax rates (Kirby, 2007; Reschovsky & Imazeki, 2000).

**Recent court cases.** Wealthy districts in the state initially filed the latest court cases, *West-Orange Cove v. Shirley Neeley, Texas Commissioner of Education et al.* The first case argued that the tax cap had become both a floor and a ceiling for taxation, and thus had “evolved into a state wide property tax” (Kirby, 2007). The first case filing was dismissed from the trial courts, then appealed to the state supreme court where the justices remanded the case back to the trial courts to be heard. Eventually, *West-Orange Cove II*, made it back to the state supreme court with the same argument—that districts no longer had meaningful discretion in setting their own taxes. One group of plaintiffs in the case argued that districts were being forced to tax at the maximum rate to maintain quality education programs. Edgewood ISD and other plaintiffs from poor districts had also joined the case and argued that the current levels of funding were not enough to be able to provide “a general diffusion of knowledge”. Again, the system was deemed unconstitutional, but only as it violated the provisions against a statewide *ad valorem* tax. The Supreme Court did not side with Edgewood and disagreed with the claim of an inadequate system. Because of this ruling, the only change to come out of the legislature

was a plan to reduce state property taxes. Currently the state is in the midst of reducing the maximum tax rate from \$1.50 down to \$1.00 per \$100 of valuation. Recapture is still in place, and legal challenges to the existing system are likely being developed. Our understanding of this traditional account of school finance policy and legislative history in Texas benefits from critical analysis, such as that offered by LatCrit perspectives.

# Relevant Literature

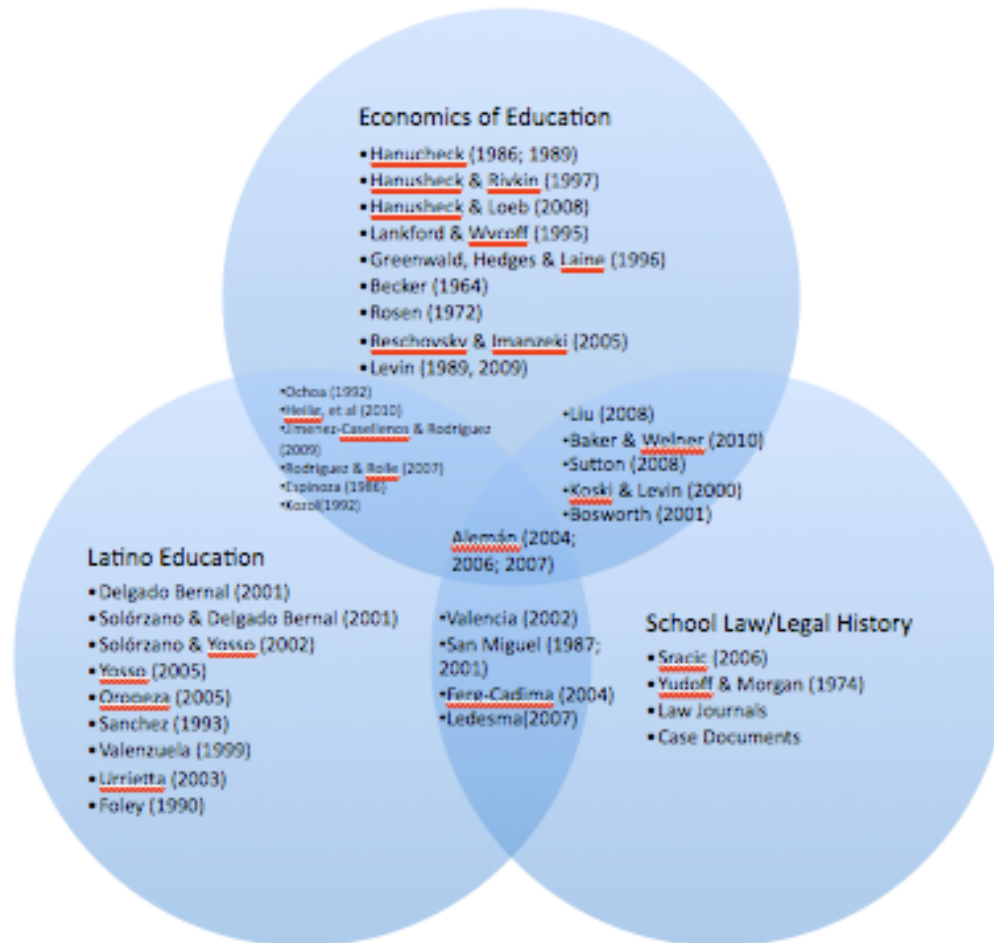


Figure 1

## Conceptual Framework

The figure above is one way of representing how I am thinking about the literature related to my research topic. Economics of education, school law and legal history, and Latino education are the three large areas that I pull from. While there is a

great deal of work in each of these areas and in regions of overlap, there is little work being done at the intersection of all three topics. To explore this intersection, I choose to use a Latino Critical Race theory framework. This framework, outlined below, is a good fit because it provides a structure for examining race within the *Rodriguez* case. This framing makes race visible, it values history and context, pushes against normative beliefs and assumptions, and deconstruction of this case as race neutral. This section lays out the tenets and evolution of CRT and LatCrit.

### **Critical Legal Studies**

Critical Legal Studies (CLS) is an area of legal scholarship that developed following the Civil Right movements and largely came out of the Harvard and UC-Berkeley Law Schools (Lynn & Parker, 2006). The need for CLS came from the Civil Rights movement stalling and the recognition that many legal accomplishments were being dismantled (Lawrence, Matsuda, Deldago, & Crenshaw, 1993). CLS scholars pull from the work of Critical Theorists such as Gramsci, Marx, and Weber and use these theories to push against legal realism and objectivism within the law (Tate, 1997). CLS “questions the objective rationalist nature of the law and the process of adjudication in the U.S. courts”, and implicitly critiques the court system as being a vehicle for serving the needs of those with wealth and power, rather than operating as a place for the poor to address societal wrongs (Lynn & Parker, 2006, p. 259). According to these scholars, the problem with the Civil Rights movement was that it continued to operate within the system that created the inequalities in the first place. Yet for scholars concerned with

racial inequities, CLS scholars focused primarily on class and did little to redress race based forms of domination (Lynn & Parker, 2006; Solórzano & Delgado Bernal, 2001).

### **Critical Race Theory**

Critical Race Theory (CRT) grew out of this movement in legal scholarship. While valuing the attempts of CLS to question “the role of the traditional legal system in legitimizing oppressive social structures” (Delgado, 1995 in Ladson-Billings, 1998, p. 71), CRT scholars seek to include race as they examine multiple forms of subordination (Crenshaw, 1988). Bell’s work, for example, is directed at dismantling traditional civil right language in order “to provide a more cogent historical and legal analysis of race and law” (1987, p. 216). He argues that the Constitution itself promotes property rights over human rights and introduces the concept of interest convergence. Interest convergence is the idea that significant progress for people of color is only accomplished when these goals are in alignment with the goals of Whites. Interest convergence also links to the concept of the Price of Racial Remedies that explains that Whites will not support Civil Rights that threaten their dominant position. Delgado also contributes to the development of CRT as a field of study by emphasizing story-telling as a to challenge dominant, stock stories that construct realities in order to legitimize the power of the dominant group (Tate, 1997). Crenshaw is another important scholar who explored notions of meritocracy and colorblindness. She articulates that these types of policy make no sense in a society that has historically treated groups differently. Historic treatment persists in the present context, and policies of colorblindness give the

appearance of equality, without being a burden to dominant white society (Crenshaw, 1988).

While there are many version of the tenets of Critical Race Theory (Delgado & Stefancic, 2001; Lynn & Parker, 2006), what is at the core of these principles remains fairly consistent. I choose the following six tenets because of their explicit inclusion of history and context and the emphasis on the law.

1. Racism is endemic in American society.
2. Notions of color blindness, neutrality, objectivity, and meritocracy should be challenged.
3. Culture and history are important. Current inequalities are linked to the past.

CRT presumes that racism has contributed to all contemporary manifestations of group advantage and disadvantage along racial lines.

4. Experiential knowledge of people of color should be valued and used in the analysis of law and society.
5. CRT should use interdisciplinary approaches.
6. CRT works towards eliminating all forms of oppression.

(Lawrence, Matsuda, Delgado, & Crenshaw, 1993, pp 6-7).

CRT is an explicit attempt to be race conscious in order to challenge the hegemonic structures that facilitate racism. Antidiscrimination laws are directed at preventing future overt racism but do not do enough to eradicate the causes of racism or rectify past injustices (Crenshaw, 1988). CRT accepts that racism is normal, ordinary, and experienced daily by most people of color. Storytelling is one method for

contextualizing these experiences (Solorazano & Yosso, 2002), and these narratives are both accepted and encouraged as a way to challenge the accepted social reality.

Additionally, this perspective posits the need to recognize that race is a social construction, recognizing that race and oppression changes as the “dominant society racializes different minority groups at different times” (Delgado & Stefancic, 2001, p. 9

### **Latino Critical Race Theory**

While CRT does embrace notions of intersectionality, the field of LatCrit developed in part to broaden discussions of race in the United States beyond a Black/White dichotomy (Yosso, 2005; Espinoza & Harris, 1998). Lynn and Parker write that “‘White’ has historically stood not only for members of the White race but for a set of concepts and privileges associated with it while Black has been defined by the legal denial of those privileges. Latinos don’t occupy neatly defined racial categories” (2006, p. 263) but nevertheless experience racism. LatCrit is more explicit about addressing multiple forms of oppression and examines the intersections of race, gender, ethnicity, language, culture, nationality, sexuality, phenotype, surname, immigration, and migration (Villalpando, 2003; Lynn & Parker, 2006; Yosso, 2003). LatCrit scholars assert that racism is experienced “amidst other layers of subordination” (Yosso, 2003, p. 72). A second key component of LatCrit is that it works to promote a pan-ethnic identity for Latinas/os while recognizing within group diversity. Further, it recognizes the historical and cultural differences among Latinos and between Latinos and other groups of color (Nuñez, 1999).



It is important to note that LatCrit is neither competitive nor incompatible with CRT. LatCrit scholars generally operate from the same tenets as CRT scholars, but add the emphasis on intersectionality and Latino identity that is often missing from CRT scholarship. They are not the same thing, but these two frameworks are closely linked.

### **Why CRT and LatCrit?**

Omi and Winant describe “*racial formation* as the sociohistorical process by which racial categories are created, inhabited, transformed, and destroyed” (1994, p. 55). This research seeks to centralize race in the discussion of school finance. It is possible to view *Rodriguez* (and shift in the composition of the Supreme Court itself) as the beginning of the “backlash” from the nation state against Civil Rights movements and the beginning of the rise of neo-conservatism and “colorblind” perspectives on policy. The presence or absence of race within the *Rodriguez* case is part of the larger political discourse on race. Fischer states, “the policy process, in this conception, is about gaining and exercising power. But the process is mediated through competing discourses...that reflect the distribution of power” (2003, p. 46). Analysis of this legal discourse through a LatCrit framework illuminates the ways that the bureaucracy of the court has established normative ways of talking about school finance. In this system the court has the power to establish what is legitimated as part of the discussion and what is deemed illegitimate. I believe that race was a more prominent issue for the plaintiffs, yet the case presented to the Supreme Court was based almost exclusively on wealth discrepancies and not on systemic racial discrimination. Later litigation continues to discuss equity and adequacy in these terms and to reproduce the dominant discourse.

### **CHAPTER 3: METHODOLOGY**

In this chapter, I provide the overview of the epistemology, methodology, and methods that were utilized in this dissertation study, which involves an examination of historic documents and records surrounding the *Rodriguez* case. The purpose of this research was to understand the connections between race and school finance policy, particularly how race was included and/or excluded in the *Rodriguez* case. In this endeavor, I delineated a rationale for understanding policy and legal history as raced events, which stems from Latino Critical Race Theory (LatCrit). Because of the importance that LatCrit places on history and context, the strategic application of historic and archival methods are appropriate tools.

In the following sections, I articulated the specific research questions that guide this inquiry and the LatCrit perspective that provided a theoretical framework for exploring these questions. Subsequently, I discussed the appropriateness of qualitative inquiry for a project of this nature and provide an overview of the qualitative methods used within this study followed by a discussion of the analytic strategy that was applied in this project.

#### **Research Questions**

In this dissertation, I studied the inclusion and exclusion of race in the *Rodriguez* case, a case that exemplifies the policy discourse of Texas school finance. I chose to focus my research in this way in order to explore dominant narratives, particularly what was missing from such narratives, and to identify factors that contributed to the way race

is depicted within the *Rodriguez* case. It is my belief that gaining such insight will facilitate a broader understanding of how current policies and policy discourse, particularly Texas public school finance policy, ignore race. My inquiry, which involved an examination of the social context that fostered legal action and the language surrounding the court cases, including attention to official language in court and policy documents as well as in socially mediated language, was guided by the following research questions.

Research Question 1: What factors prompted the *Rodriguez* suit against the district?

Research Question 2: How was race discussed in the *Rodriguez* case?

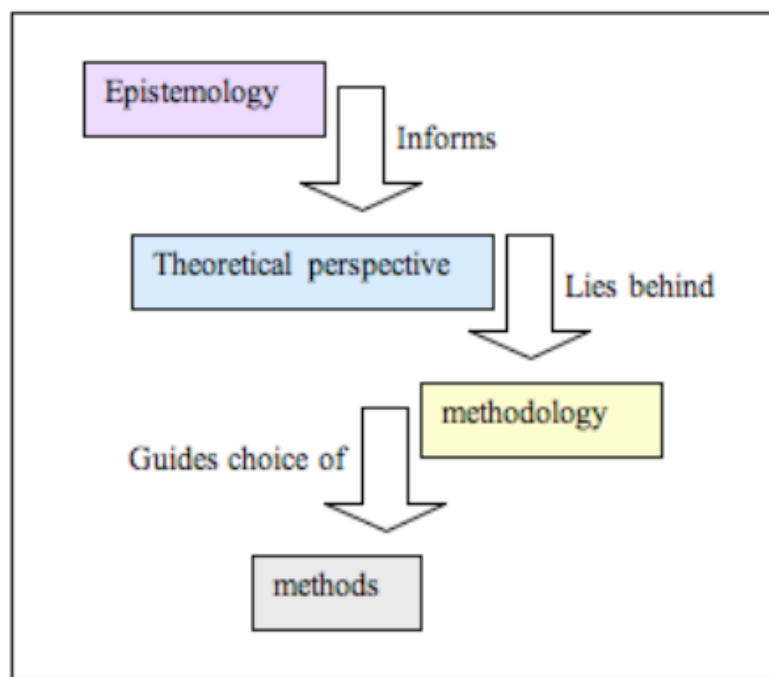
In the following section, I describe my personal research framework, explaining my own epistemological perspectives and how it informs my approach to the research project. Specifically, I discuss the epistemological and theoretical tenets underlying the version of LatCrit used within my dissertation research, as well as, the application of such frameworks to qualitative and historical research.

### **Research Framework**

Crotty (1998) delineates and discusses how research methodology must align appropriately with epistemology. As shown in Figure 2, below, Crotty illustrates the alignment of methods within a particular methodology, which in turn is guided by one's particular theoretical view that is informed by overarching epistemological perspectives about the foundations of knowledge itself. Following the advice of Crotty, the epistemology and methodology at work in this dissertation are carefully aligned.

I have previously described the assumptions and tenets of CRT and LatCrit in Chapter 2; thus, in this chapter I will articulate how LatCrit fits within my own ways of seeing the world. Additionally, I discussed how LatCrit was used to develop both the research questions guiding my research as well as my inquiry and analytical approaches.

Figure 2: Crotty's (1998) conceptualization of the four elements of the research process.



## **Epistemology**

Making clear and explicit the philosophical assumptions about the nature of reality (ontology), the nature of knowledge (epistemology), and the ways of collecting and interpreting information (methodology) is an important first step in the process of conducting research. Laying out these assumptions here helps guide my plan of study as well as orients the reader to my foundational beliefs.

According to Lather (2004), there are at least four paradigms of inquiry. These include positivist/post-positivist, interpretivist, critical, and postmodern/poststructural, each operating under its own assumptions regarding ontology, epistemology, and methodology. My work operates from a critical paradigm. Critical inquiry has several key features. For example, the critical paradigm assumes a realist ontology, meaning a belief that reality does exist. While a positivist or post-positivist perspective claims that there is a single true reality that can be known through study, an interpretivist paradigm holds that this reality is socially constructed instead of absolute. A critical frame agrees that knowledge about reality is socially constructed, but it emphasizes the idea that not everyone has equal power to participate in the construction of that knowledge, thus there are multiple realities. This epistemological stance focuses on the lived experiences of individuals in a society and how they are accepted or marginalized in the process of knowledge construction. From this position, critical research employs methods of study that are pluralistic and work towards the “inclusion of diverse voices from the margin” (Mertens, 1998, p. 52).

### **Theoretical Perspective**

Together, Bourdieu, Gramsci, Anzaldua and Friere, among others, inform my personal theoretical perspectives and application of critical theory to race, policy, and education. My understanding of critical theory is predominantly shaped by Bourdieu (1977) and Gramsci (Crehan, 2002). I find the work of these scholars useful in understanding issues of power, but also limited to discussing these power differences through economics alone. For understanding critical theory from a racial perspective or

from intersecting positions of subordination, I draw from Anzaldúa (2007) and Friere (2006).

Taking Bourdieu's work as a starting point, I have thought quite a lot about connections to politics. I am interested thinking differently about politics and policy instead of continuing to exercise rational choice and institutional theories so commonly used in the field. One way to accomplish this goal is to examine policies through a critical lens. In *Outline of a Theory of Practice*, Bourdieu writes, "The political function of classifications is never more likely to pass unnoticed than in the case of relatively undifferentiated social formations, in which the prevailing classificatory system encounters no rival or antagonistic principle" (1977, p. 164). Here, I see the "political function" as equating to a policy like school finance. The prominence of economic views within the discourse of school finance has become the de facto (i.e., status quo or taken for granted) way of thinking about school finance. Because these rational economic perspectives dominate thinking in the field of school finance, the legitimacy, classification, and structure of school finance in Texas generally goes "unnoticed" and unchallenged. Understanding school finance through a LatCrit frame may represent at least a heterodox discourse to challenge the "dominant system of classification" (1977, p. 169).

Critical views on education policies are often not discussed and do not enter the discourse on the topic. By not working to widen this discourse, we are in a sense "consenting" to the dominant political structures that already exist. School finance policy as we know it is one of many hegemonic structures surrounding education. According to

Gramsci (2002), hegemony is constituted through a combination of coercion and consent. Here authority is maintained either through force or through consenting to the social norms and expectations. To understand coercion and consent, inquiry into the historical context can be helpful. Examining the history of legal battles and activism challenging inequities in school funding reveals that some “victories” may actually represent a form of consent. In spite of changes to funding and years of court battles, funding gaps persist and are growing, students have never been funded at the levels calculated as the cost of education, and most importantly by “agreeing” or “consenting” to the system (at least agreeing that what we have now is better than it was) these activists have in fact legitimated this flawed system. According to Gramsci, as civil society provides consent, existing power relationships are reproduced (2002, p. 104). Here, I see a direct connection between Freire’s ideas of awareness and Gramsci’s ideas of coercion and consent. Freire writes, “As long as the oppressed remain unaware of the causes of their condition, they fatalistically ‘accept’ their exploitation” (2006, p. 64). Freire seems to be saying that the only way to break free from the existing power structures that enforce through coercion or consent is to become critically conscious.

Instead of court battles, Gramsci might advocate for revolution, though Bourdieu might argue that the system could not really be changed either way. While it may be blindly optimistic on my part, I just cannot accept that change is impossible. I also cannot accept Gramsci’s notion of revolution because history is full of examples of how following revolution one form of hegemony is simply replaced by another. Additionally, these two theorists only attend to issues of class, thus ignoring other forms of

subordination, such as gender, race, culture, language, sexuality and any other condition that systematically differentiates. Given my beliefs regarding the possibility for change and my belief that race is important to the discussion of oppression, not just class, I supplement Gramsci and Bourdieu with other critical scholars who examine race and intersectionality.

My theoretical understandings of multiple forms of oppression have been guided by the writings of Freire and Anzaldúa. While many of Freire's arguments remain based on class, it is clear that his articulation of oppression extends beyond class alone to include factors of race, gender, culture, language, ethnicity, and education (2006). He does not use the term intersectionality, but this is what he describes. Freire is working against any combination of forces that seek to dehumanize. This clearly connects to Anzaldúa's ideas of *mestiza* consciousness (2007). Anzaldúa describes multiple layers of identity that intersect in an individual. Race, language, sexuality, gender, and geography are all components of this consciousness. "The work of *mestiza* consciousness is to break down the subject-object duality that keeps her a prisoner and to show in the flesh and through the images in her work how duality is transcended" (Anzaldúa, 2007, p. 102). Multiple identities and forms of oppression exist within all of us, and I think this notion of *mestiza* consciousness blurs the boundaries of our artificially constructed dichotomies in a good way. Identity and consciousness becomes messier but more authentic. By broadening our discussion of oppression beyond class, we extend the core ideas of critical theory to include these multiple forms of oppression. In this way, I link Gramsci and Bourdieu to Freire and Anzaldúa.



Freire is also important to the way that I see myself and my positionality. I recognize my relative position of privilege as someone who is white and educated and the potentially problematic nature of a white scholar studying issues of race. Yet I am also actively working to develop my own *conscientização* or critical consciousness. This term refers to “learning to perceive social, political, and economic contradictions, and to take action against the oppressive elements of reality” (p. 35). Part of my academic path has been to recognize that I am privileged, but it has also been to recognize how that privilege has come through the oppression of others. Readings, reflection, and dialogue with others concerned with issues of subordination and power have helped me work towards “ejecting the oppressor within” (Freire, 2006, p. 48) and in seeking solidarity with oppressed peoples. While Freire most often uses ideas of awakening critical consciousness within oppressed peoples, I also feel this awakening applies to the oppressors as well.

To enter into “true solidarity with the oppressed means fighting at their side to transform the objective reality which has made them ‘beings of another.’ The oppressor is in solidarity with the oppressed only when he stops regarding the oppressed as an abstract category and sees them as persons who have been unjustly dealt with, deprived of their voice, cheated in the sale of their labor—when he stops making pious, sentimental, and individualistic gestures and risks and act of love” (pp. 49-50).

I intend this dissertation project to be an act of solidarity. Freire presents education as a dehumanizing, indoctrinating force but also suggests “education as the practice of freedom” (p. 81). For Freire change is possible.

Other contemporary scholars apply critical theory in interesting and novel ways to the field of education. For example, in response to the area of ethnic studies, Pierre’s work rejects the study of ethnicity, not because culture is not important, but because ethnicity studies tend to use “culture” as a label for just another form of racialization and hierarchy used to treat people differently (2004). Pierre uses a critical perspective to re-center discussions on race. Urrietta (2003), Foster (2005), and Oesterreich (2007) also discuss the importance of identity, the complexity of culture, and the multiplicity that exists within individuals and within identity groups. These nuanced discussions of race, intersectionality, and subordination link directly to the use of LatCrit in this research. LatCrit offers a framework that supports central ideas within critical theory while embracing contemporary discussions of race.

## **Methodology**

Methodology works to inform the selection of methods while aligning with theoretical perspectives. Strauss and Corbin define methodology as “a way of thinking about and studying social reality” (1998, p. 3). These strategies of inquiry (Creswell, 2003), even within qualitative work, can be quite varied. To answer the research questions of this dissertation, I will draw on general qualitative inquiry and historic methodologies.

**Qualitative inquiry.** According to Denzin and Lincoln (2008), the qualitative researcher as “*bricoleur*, or maker of quilts, uses the aesthetic and material tool of his or her craft, deploying whatever strategies, methods, and empirical materials are at hand” (2008, p. 5). Here, qualitative methodology is a process of piecing together interpretations, and representing understandings through patterns. From their perspective, objective reality cannot be captured, making qualitative methodology compatible with interpretive and critical epistemologies. These scholars identify qualitative research as its own paradigm. Crotty, however, explains that differences between quantitative and qualitative research occurs at the methods level, not at the epistemological or theoretical levels (1998). In coming from a critical research paradigm, qualitative methodology appeals to me because I am “interested in understanding the meaning people have constructed” in order to make sense of their worlds and experiences (Merriam, 1998) and to recognize that construction as mediated by power.

While the term *bricoleur* signals the varied nature of qualitative methodology, it does not mean that qualitative methodologies are random or that “anything goes.” Rather, the patching that is done within qualitative inquiry is quite purposeful. As Strauss and Corbin (1998) assert:

“By the term ‘qualitative research,’ we mean any type of research that produces findings not arrived at by statistical procedures or other means of quantification. It can refer to research about persons’ lives, lived experienced, behaviors, emotions, and feelings, as well as about organizational functioning, social movements, cultural phenomena, and interactions between nations....the bulk of

the analysis is interpretive...a nonmathematical process of interpretation, carried out for the purpose of discovering concepts and relationships in raw data and then organizing these into a theoretical explanatory scheme” (pp. 10-11).

Qualitative research often uses particular techniques, such as interview and observation, and different researchers engage in qualitative inquiry in many ways and for many purposes. Narrative, case study, content or discourse analysis, archival, phenomenological, hermeneutics, and ethnography are just a few examples of qualitative methods, yet within qualitative methodology, “no specific method or practice can be privileged over any other” (Denzin and Lincoln, 2008, p. 9). At the core, however, qualitative methodology embraces some version of “naturalistic, interpretative approach to its subject matter and an ongoing critique of the politics and methods of postpositivism” (Denzin & Lincoln, 2008, p. 14). One “strategy of inquiry” posed by these authors is historical social science.

**Historic research.** Essentially, historic research or textual analysis is qualitative in nature. While much of qualitative work utilizes interviews and observation as well as documents, historians often only have access to records and documents of lived experiences of the past. Thus, texts themselves are at the heart of histories. This research uses both archival analysis and oral histories as specific methods of historic research.

Understanding the context of production and purpose of the text is important, as well as recognizing which texts endure as a legitimization of power. Ultimately most texts endure because they are deemed important by dominant society, and thus legitimize a certain version of history. “Text and context are in a continual state of tension, each

defining and redefining the other, saying and doing things differently through time” (Hodder, 2000, p. 704). While material evidence provides insight into components of lived experience, archives do not hold historical truth. A dialectical relationship exists between the context of material and context of the analyst.

Qualitative data generally relies on interviews, observations, and documents as potential data sources. Because this is historic research, direct observation is impossible and the availability of participants for oral history interviews may also be limited. Thus, the bulk of the data for this project will rely on documents. These documents can include, “excerpts, quotations, or entire passages from organizational, clinical, or program records; memoranda and correspondence; official publications and reports; personal diaries; and open-ended written responses to questionnaires and surveys” (Patton, 2002, p. 4).

History methodology, however, is less interested in the study of texts in and of themselves. Document data must have been “captured in a way that records and preserves context” (Patton, 2002, p. 4). Qualitative researchers understand that documents “may be incomplete or inaccurate” or that they vary in quality, yet “document analysis provides a behind-the-scenes look at the program that may not be directly observable and about which the interviewer might not ask appropriate questions” (Patton, 2002, p. 307). While these sentiments also apply to historic and archival documents, in doing a history, the feasibility of conducting interviews or observations is less likely, and thus reliance on documents is higher within history methodology. Because of this, it is important to note the quality of documentation, organization of archives, and to recognize

what is not contained within archival records. An understanding of all of this leads to a more insightful interpretation of the subject of study.

## **Methods**

A simple rationale for the application of historic methodology to a social science project is that historians are disciplinary outsiders to the social sciences. “Most historians frame and answer questions such that many core issues important to the social sciences are either poorly addressed or ignored all together” (Hill, 1993, p. 4). Conversely, many researchers in the fields of education and policy fail to give adequate attention to history. It is important for us as social scientists to come to understand our own disciplinary history and to use the tools of historians to accomplish this “sociohistorical research.” Archival research and oral history are two identifiable methods that will be employed in this research.

**Archival research.** Archives are physically enduring, yet they are separated from the author or producer of the documents and often exist with no possibility of the reader interacting with the originator. Archival research, then, is often the “interpretation of mute evidence” (Hodder, 2000, p. 703). Drawing from Derrida (1978), Hodder (2000) explains that meaning does not exist in the text itself, but in the writing and reading of it. Because of this, different readings of the same archival texts can yield different meanings that dependent on social understandings and the perspectives of the researcher. In essence, archives do not offer truth, simply a means for interpretation or constructing different narratives.

To begin this interpretation, texts must first be understood in the context of production. Is a text written from firsthand experiences or secondary sources? Was the text solicited or unsolicited, edited or unedited, anonymous or signed? Additionally, texts, particularly government or organizational documents need to be understood according to their initial intended purpose (Hodder, 2002). Information contained in a press release might be very different than what is written in personal correspondence. While neither form of text is more valid than the other, interpreting the meaning of the text is strongly linked to its purpose.

Doing archival research also requires that the research understands more contemporary factors such as institutional affiliations and the processes of archival sedimentation. Archives exist within “institutional patterns and practices” (Hill, 1993, p. 5) and are often housed within existing institutional structures such as universities, libraries, and governmental or private organization. Additionally, Hill describes sedimentation as the process for how potential documents for archives are sifted through and organized before they become available. Essentially, sedimentation is a way of understanding that “archives are neither certain nor systematic” (p. 8). What is included and how the included information is then arranged within an archive is a human decision based on the value judgments of the archivist.

This methods fits nicely within my research framework because it offers a specific way of understanding and interpreting history through analysis of archived records. Additionally, archival research recognizes the power differentials involved in the sedimentation of archives and whose documents are selected for archiving to begin

with. Thus, archival research is a method that understands that there are voices that are left out of the archives and possibility of multiple interpretations from records.

**Oral history.** Much of historical research focuses on the specifics of events or phenomenon. Oral histories, however, focus on “the meanings that events hold for those that lived through them” (McMahan & Rogers, 1994 in Chase, 2008, p. 59). This distinction between fact and experiential knowledge is key. Critical perspectives often question whose knowledge matters, and CRT and LatCrit compel the use of lived experiences in order to understand the impacts of race. In this project, the use of oral histories will illuminate elements of the case for which there are no archival records. Many of the parent and activist groups during the time of the *Rodriguez* case no longer exist and did not generate archival records. Because of this, existing archives tend to emphasize “important” legal actors and legal documents rather than the lived experiences of the participants themselves.

### **Unit of Analysis**

In this project, the unit of analysis was the *Rodriguez* case. Patton writes that the unit of analysis in qualitative studies can vary. Individuals, groups, programs, neighborhoods may be the unit of analysis, or “particular events, occurrences, or incidents may also be the focus of study” (Patton, 2002, pp. 228-229). In this study, the unit of analysis is an event. The *Rodriguez* case serves as a critical incident in understanding school finance policy and race. The case is bound by time, located in a particular geographic location, and involves specific individuals and groups, but the case is the central focus.



*Rodriguez* was first filed in 1968 and was decided by the federal Supreme Court in 1973. The time period being studied, however, expands to include both the events leading up to the case being filed and the response to the decision at a local, state, and federal level. This case geographically encompasses the Edgewood Independent School District and surrounding San Antonio area districts in the early stages, but then expands to impact school funding at state and national level. The case includes various legal documents as well as people. Lawyers on both sides of the case, plaintiffs, state and local school officials, area parents, students, and community members are all part of this particular case.

### **Data Gathering and Sources**

Historians approach methodology differently than most other researchers. In the field of history, methodological concerns are more closely tied to sources and variety of historical data than to the specifics of research techniques. Additionally, “the way in which (the sources) are interpreted have a lot to do with the types of questions asked, the theory relied on, and the argument” (Rousmaniere, 2004, p. 45). In this section, I address the data sources in detail, before discussing how these sources will answer the research questions posed and the methods of analysis.

### **Archives**

Before actually conducting archival research, a researcher must locate pertinent archives. This process typically involves an initial literature review on the topic that is used to build a “master name list” of key figures, as well as important organizations or searchable categories. These names and organizations can then be used to search online

databases to locate archives. Finding an archive is just one step, however. Once located, archival researchers must then be able to locate specific items and information within the archives themselves. “Archives are essentially large ‘black boxes’ from which you must extract useful data without being able to look directly inside” (Hill, 1993, p. 44). Using the archival finding guide and the knowledge of the local archivist can be quite helpful in locating sources. In working in the archives and collecting data, researchers take careful notes or make copies of pertinent documents, noting the exact location within the archive. This process will constitute the bulk of data collection and often requires copious amounts of time. Collecting data and interpretation, however, are often iterative. “Good historical research requires a sense of conviction and a point of view. Interpretation and selection go hand in hand; one is the result of another” (Stieg, M. 1988, p. 17, in Hill, 1993, p. 59).

Primary archival sources include the papers of Charles Allen Wright, the lead attorney for Texas in the case. His papers are located at the Tarleton Law Library at the University of Texas. The papers of José Cárdenas, Edgewood superintendant and later founder of the Intercultural Development Research Association (IDRA) were also instrumental to this project. These papers are located at the Benson Library at the University of Texas. Some documents from activist or policy groups included the IDRA, *La Raza*, the Brown Berets, and the MAYO are available in the Benson Library archive collection. Many court and legal documents are available online, and a visit was made to the National Archives Southwest Region in Fort Worth to collect the facts of the cases, majority and dissenting opinions from judges, amicus briefs and deposition. Supreme

Court documents were available through online archival sources. Newspaper articles from papers in San Antonio and national papers have all been identified and collected for this study using online newspaper archives and the newspaper archives at the Briscoe American History Center at the University of Texas.

### **Oral History**

Oral history refers to both the method of collecting and recording in-depth personal accounts of past events, as well as, the final product of this collecting. Oral histories differ from other forms of interviewing. They tend to be more in-depth than most interviews, and the content is grounded in participant reflections on historic events instead of contemporary contexts (Oral History Association, 2009). Oral history is an excellent method to pair with archival research in this study because it will provide personal accounts and data that are not available otherwise.

Because this case began over 40 years ago, some participants of the case are deceased or in poor health. For example, Arthur Gochman, the lead attorney for the Rodriguez plaintiffs passed away only a few weeks before I began data collection. The key figures who were included as oral history participants specifically for this research were lead plaintiff Demetrio Rodriguez, and attorneys Mark Yudof and Al Kauffman. Additionally, existing oral histories from Rosie Castro, José Cárdenas, Joe Bernal, Albert Peña, and José Angel Gutiérrez, and Al Kauffman. The existing oral histories were located through the Tejano Voices Collection at the University of Texas at Arlington Mexican American Studies Oral History Project and through the Baylor University Institute for Oral History.

These individuals were selected based off of the Key Names List generated when conducting a literature review and searching for archives. Not only are these individuals key figures in the *Rodriguez* case, but often they or groups with which they were affiliated have minimal archival records available. As Hill notes, “the papers of privileged and institutionally powerful people are far more likely to be accepted by the archives than are donations of ‘lesser’ men and women” (1993, p. 17). Because this project seeks to include silenced voices in the discussion of race and school finance, oral history becomes a critical tool.

### **Data Sources for Research Questions**

Historic research often begins with a simple question or questions that become more specific and refined as the researcher interacts more with the relevant sources. How these questions are shaped inevitably guides how the study will proceed and which sources are important. In my own research, I began with a general interest in school finance. I explored sources related to the more recent Texas court cases (Edgewood and West Orange Cove), before ultimately arriving at questions that focused on *Rodriguez* as the first Texas case and the issues of race and power that surround this case. This section describes how specific sources will be used to answer the two guiding research questions for this research.

Research Question 1: What were factors that prompted the *Rodriguez* suit against the district?

This question focuses on both the financial disparities and the community, parent, and student responses to these monetary differences. To answer this question, I used oral

histories extensively to generate narratives of the experiences of individuals growing up and living in San Antonio and other parts of Texas. In addition, the writings and papers from José Cárdenas and the IDRA, and archives containing documents from the MAYO, *La Raza*, the Brown Berets, as well as newspaper articles covering the related marches and protests that involved these groups. These documents and archives were useful in providing context and in better understanding the conditions and community and student organizing. Court documents, including ample statistical data reporting the economic and financial inequalities, depositions, briefs and opinions, were also used to demonstrate the tangible financial differences during the time period before the case filing. Secondary published sources, such as books and journal articles, were also used to more fully comprehend this context.

Research Question 2: How was race discussed in the *Rodriguez* case?

To understand the language and lack of attention to race in the case itself, the discourse contained within the various legal documents were analyzed. The documents included briefs and court filings from the various levels of the court case, depositions, legal evidence, transcripts (when available), and amicus briefs. These documents were available as online sources and in the National Archives Southwest Region in Fort Worth, Texas. In addition to these documents, this question will be answered by examining the papers of Charles Allen Wright, a former University of Texas Law professor, who argued the case for the San Antonio side before the federal Supreme Court. Audio of the oral arguments before the Supreme Court is also available and has been transcribed. Additionally, oral histories from Mark Yudof, one of attorneys arguing the *Rodriguez*

side of the case, Al Kauffman, an attorney who presented school finance cases following *Rodriguez*, and Demetrio Rodriguez were utilized in answering this question. Further, secondary published sources, such as Sracic's legal history utilizing the archives of Justice Powell and other legal archives (2006), and law review articles and will be used.

### **Analytical Methods**

Analysis, simply put, is making sense out of data. While necessary to anticipate, it is difficult to write about analysis before it has happened or before data collection has occurred. With historic research, it is impossible to know what one will find in the archives, thus it becomes even more challenging to describe how it will be understood. Nevertheless, analysis in this project will employ general analytical techniques used in qualitative research to analyze both the historic text and oral histories (Strauss & Corbin, 1998; Merriam, 1998).

“Many qualitative researchers who use written texts as their materials do not try to follow any predefined protocol in executing their analysis. By reading and rereading their empirical materials, they try to pin down their key themes and thereby, draw a picture of the presuppositions and meanings that constitute the cultural world of which the textual material is a specimen” (Peräkylä, 2008, p. 352).

While it is important to understand the fluidity of qualitative analysis, it is also helpful to understand the process more concretely as Merriam describes levels of analysis in qualitative work: description, category construction, and developing theories (1998). The most basic level of analysis is writing a descriptive account of the data and findings.

Qualitative research relies on the use of thick description, but even in the most basic description, decisions must be made of what to include or leave out and how to connect ideas that are present in the data. Description, in the form of a historic narrative, was a large part of the analysis, but the analysis of data did not remain at this level. Category construction is a method of analysis that identifies patterns or themes that extend across the bulk of the data collected. This type of analysis is done in combination with data collection and evolves throughout the research process. In previous work with the Charles Allen Wright archives and online newspaper archives, categories of social context, race language, and the role of the court developed. The development of these categories continued to be guided by the participants, documents, and the framework of LatCrit. Using such a framework can be helpful in that the tenets provide one way of looking at and making sense of the data, but Glaser and Strauss also caution against the reliance on predetermined categories. “Emergent categories usually prove to be the most relevant and the best fitted to the data” while borrowing categories may not be relevant and may lack the richness of emergent categories (Glaser & Strauss, 1967, p. 37). At the very least this research will offer analysis at the level of creating categories of data, though it is my hope to be able to develop theory, as well. Developing theory in this manner requires some degree of inference or explanation regarding the data and linking the categories in some meaningful way. Theory development will be guided by the principles of guided theory as articulated by Glaser and Strauss (1967). Ultimately, analysis is an outcome of the researcher interacting with and interpreting the data where “the researcher is the instrument of analysis” (Strauss & Corbin, 1998, p. 53). Historic

research, in particular, is an act of interpretation (Lugg, 2006) and creating a compelling historic narrative.

The technical aspects of analysis require the careful reading of texts and archival documents, noting possible categories. To analyze oral histories, I manually transcribed the oral history interview data, coded the transcripts and notes, and analyzed them as Huberman and Miles (1984) suggest by noting patterns and themes, arriving at comparisons and contrasts, and determining conceptual explanations. Data from both archives and from oral histories were analyzed using constant comparative methods. As the term implies, this means constantly comparing incidents or events or themes within and across the various data sources. From this process, theory emerged that was grounded in the data itself (Glaser & Strauss, 1967). Texts and transcripts were carefully read and critically analyzed using the tenets of CRT and LatCrit as a guiding framework. Thus, analysis for this project was done with the intent of attending to issues of race. This framework offers a foundation for critical policy analysis that seeks to understand policy as a historic and sociopolitical process and draws attention to the different policy contexts to understand issues of power, problem definition, and solutions (Brewer, 2008). The patterns, themes, and comparisons of oral history and archival data lead to the findings included in this dissertation.

### **Conclusion**

The purpose of this research was to understand the connections between race and school finance policy, particularly how race was a part of the *Rodriguez* case. This research was conducted from the perspective of a critical epistemology, using critical



theory as a theoretical framework, qualitative and historic methodologies, and oral history and archival methods as specific tools to answer the research questions presented. I have outlined the methods for finding and collecting historic data, the analytic strategies, and potential limitations of this research. Next, I will share the data and findings that was collected and analyzed according to this plan of study.

## **CHAPTER 4:**

### **FINDINGS REGARDING FACTORS THAT PROMPTED THE CASE AND HOW RACE WAS DISCUSSED**

This chapter presents the key findings from this study. Data was collected through oral history interviews and archival analysis of papers, court documents, newspapers and secondary sources. These methods were used to address two research questions: 1) What factors prompted the *Rodriguez* case? and 2) How was race discussed in the case? As such, the data presented here tells a narrative about these motivating factors and the legal and public discussion of race that followed. The chapter begins with an overview of three key factors that prompted the case, and then turns to the issue of race. Multiple data sources were used to provide richly anchored narratives in each section in an effort to deepen understanding of the *Rodriguez* case, the factors that led to the case and the role that race played in the case.

#### **Factors That Prompted the Case**

In beginning to understand the factors that prompted the case and the events that led to legal action regarding school finance in San Antonio area and Edgewood ISD, three themes emerged. Themes emerged through data analysis that involved careful reading of texts and archival documents and noting possible categories and patterns before making comparisons among the data patterns to determine conceptual explanations for the data. First, the case developed as a result of clear economic disparities between the Edgewood school district and surrounding districts in the San

Antonio area. The second major theme concerns the broader community context within San Antonio, including historic housing patterns, geographic racial segregation, and education. A final theme involves the rich and complex activism by Mexican Americans in San Antonio. Each of these themes is explored in the following three subsections.

### **Economic Factors**

Financial inequalities are at the heart of the argument made by Arthur Gochman before the District and Supreme Courts. By arguing for the need to apply 14<sup>th</sup> amendment protection to economic and social class difference, these economic differences both lead to the legal action and were used as evidence in the case. The economic data presented below illustrates the differences in per-pupil spending, district property values, and taxable revenue generated for district spending. This theme also encompasses less tangible inequities such as teacher quality, comparisons of teacher certification, a lack of adequate school facilities within Edgewood ISD, and more limited course offerings compared to surrounding districts.

Although the importance of economics in this case is in many ways easy to understand, in that it is a theme based in numbers. Tax dollars can be counted. Student expenditures can be averaged. Yet, as I will show in more detail later, the way that these numbers are presented in the case and how these “facts” are discussed in newspaper articles actually illustrates that our understandings of economics are interpretations. For example, in this case and in numerous discussions of school finance that have followed, we still question whether or not money makes a difference in education. Additionally, both sides of the case present statistics and economical arguments related to school

finance that support their own arguments. The interpretation of these statistics is left to the justices.

**Statistical data presented in court.** The case as presented and argued before the courts was based on financial inequalities between school districts in the San Antonio area. The districts named in the suit were Alamo Heights, Edgewood, San Antonio, South San Antonio, Northeast, Northside, and Harlandale Independent School Districts. As stated in Gochman’s Complaint filed in District Court, “Each lies wholly or in part within the city of San Antonio and geographically they lie and are situated in one continual and contiguous urban complex that comprises the City of San Antonio and its environs” (NA, Box 1, Folder 3). Additionally, these seven districts all within Bexar County, though the complaint notes and Gochman later argues the district boundaries are not do to boundaries of nature, city limits, or county lines. Because these named district all functioned within San Antonio, costs of education would not vary across districts, yet as the statistics presented illustrate, there were vast differences in spending and in available revenue. Data presented typically makes comparisons on a district level and was prepared by expert witnesses for the plaintiffs. Joel Berke, a professor at Syracuse University, Daniel Morgan, an economics professor at the University of Texas, Dr. Don Webb, who focused on economic disparities between districts, and Dr. Charles Feldstone, who validated income measurements provided additional information all collected or analyzed data presented in the case. Specifically, these comparisons provided data regarding income, property values, percentages of minority students, and per student expenditures. This section includes several of the tables reconstructed from court

documents, primarily at the District Court level, and a discussion of the arguments and inequalities embedded in these statistical representations.

One of the economic differences between districts was the difference in tax rates. The Complaint specifically asked the state to provide specific data on the two property taxing levels at that time. The maintenance tax provided funds for the day to day operation of the school and includes elements such as instruction, teacher salaries, and textbooks, as well as the upkeep of facilities. The bond rate, other the other hand, was specifically targeted to pay back debt on a bond. Table 1a shows these figures for the 1965-1966 school year. This table was presented by the state to a three judge panel at the District Court level. For interpretation purposes, I added a column for the total tax rate. Using Edgewood as an example, their Maintenance Rate was \$0.60 and a Bond Rate of \$0.59, giving district residents a total tax rate of \$1.19 for every \$100 of property tax value. What I find interesting here was that Edgewood had one of the lower total tax rates, and they taxed at about the same total tax rate as Alamo Heights. Only Northside ISD has a lower total or maintenance tax rate. What is also interesting, however, was that nearly half of property taxes in Edgewood went to pay back bonded debt, and the district had the highest Bond Rate of the districts named in the suit. Also, while total tax rates were nearly the same, Alamo Heights was able to put about 40% more of their tax dollars towards actual education. Table 1b presents similar data for 1969 and illustrates that Edgewood was the only district to expend more for debt service than instruction. More significant was that Edgewood debt service rates are nearly double that of instruction for 1969 and that this amount increased dramatically from the 1965-1966 rate. Over the

same time period, maintenance or instruction rates for Edgewood actually decreased while these rates increase or are maintained for other area districts.

Table 1a<sup>3</sup>

*1965-66*

District	Maintenance Rate	Bond Rate	Total
Edgewood	.60	.59	1.19
North East	1.00	.45	1.45
Alamo Heights	.99	.21	1.20
SAISD	.97	.33	1.30
Harlandale	.83	.45	1.30
Northside	.55	.50	1.05
South San	1.05	.50	1.55

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(National Archives, 1971)

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<sup>3</sup> All tables are recreations of tables presented in court documents. Terminology, numbers, and arrangement of the data are taken directly from these sources, but visual appearance of the tables may have been adapted for readability and consistency with contemporary organization of data.

Table 1b

*1969 Data—Amount of Tax Rate Expended For:*

	Instruction	Debt Service
Alamo Heights	1.40	.35
Harlandale	.99	.48
San Antonio	1.25	.36
South San	1.00	.46
Northeast	1.00	.50
East Central	.75	.61
Southwest	.70	.50
Northside	.80	.45
Jusdon	.60	.60
Southside	1.30	.59
Edgewood	.55	.95
Average for county	.95	.53

(Cárdenas, 1997b, p. 36)

Because of differences in taxable property within a district, these tax rates yielded varying amounts of money spent per pupil in a district. At the time *Rodriguez* was filed, the state provided some money to each district through the Foundation School Program, but money generated from property taxes were kept by the districts and only funded local schools. The finance laws in 1968 resulted in marked disparities in per pupil

expenditures between Edgewood and the Defendant districts, and these differences are illustrated in the following table.

In a paper put out by the IDRA following the case, Cárdenas described the tax base of the district as being mostly an area of low-income residential with little commercial or industrial property to bolster revenue generation. Further, being a mostly residential area meant that Edgewood had more students on average than other districts of similar size. Essentially, there were more students to educate with fewer dollars. “In 1970-71, Edgewood had taxable wealth averaging \$5,147 per pupil compared to a state average of the \$52,600 per pupil and a state high of \$10,862,838 per pupil” (Cárdenas and Brischetto, 1974, in Cárdenas, 1997b, p. 28).

Table 3

*Per Pupil Expenditures by District for 1967*

District	Per Pupil Expenditure (1967)
Edgewood	\$289.83
North East	389.96
Alamo Heights	499.84
San Antonio	392.80
Harlandale	348.07
Northside	348.34
South San Antonio	370.40

(Source is May 17, 1968, letter from Texas Education Agency, Research Division, to Senator Joe Bernal.)



This data was included in the District Court documents and was identified as coming from correspondence between the Texas Education Agency and state Senator Joe Bernal. Bernal was from San Antonio and was also listed as an expert witness in the case on the history of the treatment of Mexican Americans in San Antonio and the southwestern United States. According to this data, the per pupil expenditures for Alamo Heights clearly stand out as they were able to spend more per student than any other district in the San Antonio area. Additionally, despite similar total tax rates, Alamo Heights was able to spend \$210 more per student than Edgewood ISD. The Complainants went on to explain these differences in per pupil spending by presenting data relating to income and property values. Table 3 examines the median per capita and household income by district.

Table 4

*Median Income Levels by School District*

School District	Median Per Capita Income	Median Income Per Household
Alamo Heights	\$2,807.59	\$8,001.64
Edgewood	\$995.01	\$4,686.53
Harlandale	\$1,453.70	\$5,553.16
Northeast	\$2,618.05	\$8,927.56
Northside	\$2,042.75	\$7,313.07
San Antonio ISD	\$1,493.33	\$4,928.87
South San Antonio	\$1,357.62	\$5,091.09

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(National Archives, 1971)

This table again shows Edgewood at the bottom in both income categories. What is more interesting and important to note, however, is the split across districts. Alamo Heights, Northeast, and Northside district incomes were above \$2,000 per capita, and about \$7,313 for household income. While Alamo Heights had the highest per capita income, Northeast median household income was higher. Further, the remaining four districts all had a median per capita income of \$1,493 or less, and a median household income of \$5,553 or less. The gap in median household income between the high group and low group (specifically between Harlandale and Northside) is \$1,760. This difference in highest and lowest incomes, between Alamo Heights and Edgewood, was \$3,315. More data or specifics about this data would be necessary to analyze it further, but this table does illustrate that this case was not simply Edgewood, or parents of Edgewood, children against Alamo Heights, but that the case truly was a class action on behalf of Texas school children who are poor (NA, 1971). While Edgewood had the lowest median incomes in Bexar County, it was not the only area district struggling with providing education to lower income students.

In his work, Joel Berke took this data pertaining to income, tax rates, and per pupil expenditures and adds to it the layers of property values and race. The Southwest Regional Branch of the National Archives in Fort Worth houses all the District Court documents pertaining to this case. The entire contents of the case fit within two boxes, but the largest folder in the collection is dedicated to the data collected, analyzed and presented by Joel Berke (NA, Box 1, Folder 5). Berke was already a well know school finance expert when he was asked to provide expert information in *Rodriquez*. In

addition, he did a great deal of analysis in the *Cahill* school finance case that was concurrently going on in New Jersey. Of all the charts and table, the bulk of Berke's work examined various financial aspects and the relationship between race and funding. In "Graph III—The Relationship Between Per Cent Minority and State-Local Revenues" Berke displayed a correlation graph based on Texas specific data. In general, the graph illustrated that as the percent of minority students in a district decreases, the per pupil state and local revenues goes up. There was an odd blip around 30% minority enrollment with revenues falling between \$450-\$525 per student, while 23% minority enrollment had a lower revenue or \$475 per student. In part, while this chart shows a clear general trend, the variation in revenue generated per pupil in the 31-23% minority enrollment created enough of a question for some of the Supreme Court justices. This data could easily be explained or understood without dismissing the overarching point that there was a huge difference between revenues available in high minority districts compared to low minority districts. According to Berke's chart, the difference is about \$500 per pupil.

In his interrogatory statements, he writes, "The correlation between the proportion of Mexican-American and Negroes within a school and the quality of school services is precisely the reverse....That is, the lower the proportion of Mexican-Americans and Negroes the higher the school expenditures; the higher proportion of minority group enrollment, the lower the resources...." Berke also presented a similar finding to that presented in Table 3, and recognized a similar negative correlation between percent minority students in a district and income levels. Offering his own interpretation of the graphs, he noted that although there is "some small inconsistency in the three middle

categories...the numbers and the line on the graph tell an eloquent story of equal educational opportunity” (NA, Box 1, Folder 5). Both Berke’s general findings regarding the relationship between income, school expenditures, and race, as well as, the “inconsistency” became important in the case and will be discussed in further detail later.

The next three tables also represent data that includes race in some way. While the case was built on the main argument of needing to protect class and the right to education, the analysis of income and property values acknowledges that there was a connection to race. Not surprisingly, Table 5 shows that property values in Alamo Heights were much higher than other area districts. In this table it is also interesting that Median Family Income was selected instead of Median Household Income as was used previously. Additionally noteworthy is the fact that Table 3 was compiled in response to information requested by Arthur Gochman in the pre-trial conference and complied by state Attorney General Martin Crawford and his staff. According to Table 4, the state opted to use particular census measures for income while Joel Berke selected another. For whatever reason, Berke often left South San Antonio ISD out of his data. I do not know if there was some purpose for this deletion or if it was merely oversight. Finally, I am curious about how Berke counted “percent minority” for this and other tables. By most accounts, and even in other documents presented to the District Court and Supreme Court, Edgewood was described as serving a student population that was anywhere from 90-95% Mexican American, with the remaining percentage of students being African American. Gochman stated that in Edgewood ISD, “94% of the students are Mexican-American; another 6% are Negro” in the hearing before the three judge panel on July 13,

1969 (NA, Box 2, Folder 6, p. 17). In the second amended complaint filed, Gochman wrote that “more than 95% or the children in EISD are American of Mexican descent” (NA, Folder 1, Box 3, p. 2) and later stated that “The students at EISD are practically all American of Mexican descent” (ibid, p. 3). Yet, according to Berke’s figures, Edgewood had only 75% minority pupils. Even without understanding the methods of calculation, there was a clear relationship between market values and median family income. The links with percent minority and per pupil revenue were less obvious, and did not present a clear argument regarding race and expenditures to the court. Several factors may have contributed to the muddle, including differences in population (both residential and student), the way minority status was being calculated here, and the variation in tax rates that likely impacts the amount of revenue generated.

Table 5

*Relationship Between District Wealth Income, Race, and State-Local Revenue:*

*Selected Bexar County School Districts Ranked by Market Valuation, Median Family*

*Income, Proportion of Minority Pupils, and State-Local Revenue*

School Districts Ranked by	Median Family Income	Per Cent	State-Local
Market Value Per Pupil	from 1960 Census	Minority Pupils	Revenue Per Pupil
Alamo Heights (49,478)	\$8,184	14%	\$558
North East (28, 202)	\$5,900	7%	\$415
San Antonio (21,944)	\$4,691	72%	\$353
North Side (20,794)	\$4,600	18%	\$362
Harlandale (unclear)	\$4,436	62%	\$323
Edgewood (unclear)	\$3,405	75%	\$248

(National Archives, 1971)

In Table 6, Berke again tried to draw links between percent minority enrollment and property values and per pupil revenue, this time with more success. By looking at a sample of districts across the state, there was a clearer pattern of per student revenues decreasing as taxable property values decrease. Comparing the highest and lowest categories also points out a gap of \$510 in per student revenue and a nearly 70% change in percent minority student populations. Yet again, however, the middle is “inconsistent”. The measurement of district racial composition does not follow in nice, clear line as the other categories do.

Table 6

*Categorized by Equalized Property Values, Median Family Income, and State-Local Revenue*

Market Value of Taxable Property Per Pupil	Median Family Income from 1960	Per Cent Minority Pupils	State & Local Revenues Per Pupil
Above \$100,000			
(10 Districts)	\$5,900	8%	\$815
\$100,000-\$50,000			
(26 Districts)	\$4,425	32%	\$544
\$50,000-\$30,000			
(40 Districts)	\$4,900	23%	\$483
\$30,000-\$10,000			
(40 Districts)	\$5,050	31%	\$462
Below \$10,000			
(unclear)	\$3,325	79%	\$305
(National Archives, 1971)			

Finally, Berke tried to isolate and analyze districts based on percentages of Mexican American students. As shown in Table 7, with the exception of the 10-19.9% range, per pupil expenditures go down as percent enrollment of Mexican American students increases. In this table, I am not sure why he excludes districts with less than 10% Mexican American student population and presumably most rural districts that

would server fewer than 300 students. But even more curious is that he does not connect percentage of Mexican American enrollment with tax rates, income, or property values.

Table 7

*Districts 10% or More Mexican-American with Total Enrollment 300 Pupils or More*

*(Expenditures are from State and local revenue only)*

Percent Mexican-American of District Enrollment	Districts in Sample		Estimates for All Districts	
	Number of Districts	Per Pupil Expenditures	Number of Districts	Per Pupil Expenditures
10-19.9	55	\$457	85	\$444
20-29.9	38	484	59	477
30-49.9	32	444	49	444
50-79.9	39	377	60	382
80-100	23	292	30	297

(National Archives, 1971)

Overall, I chose to include these tables and figures presented in the case as a representation of very real economic differences that existed between districts in the San Antonio area and across the state. Monetary differences between taxable property value, tax rates, revenues generated, and the resulting per pupil expenditures existed and were one factor in the filing of this case. Income and affordability of housing are also linked. Though muddled in places, these numbers do tell a story of difference. In addition to



strictly monetary comparisons, this economic theme also included additional inputs such as teachers and facilities, and outputs including graduation rates and student achievement.

**Facilities and other indicators of quality.** While money will always be important in a school finance case, Gochman was aware that the financial numbers were not the only issue. In November of 1968, he requested that the state provide data on a myriad of financial and tax related points, but also requested data on teacher characteristics such as number of teachers, degrees and certifications held, teacher to student ratios, salary, and turnover rates, student characteristics including number of students, racial, ethnic, and native language breakdowns, drop-out and withdrawal rates, attendance and class size. Data on facilities, administration, course offerings, number of books, services, laboratories, equipment, early childhood, achievement scores and student mobility were also requested. “Although educational quality was operationalized largely in terms of traditional inputs—teacher turnover rates, teacher quality and experience, and school facilities—such outputs as student achievement and high school completion rates were also folded into the argument” (Heise, 2008, pp. 63-64). While not all of these specific requests were provided to Gochman and the District Court, the interest in this information indicates an understanding that money impacts school quality. The “Complainants’ basic claim is that their children have a right to an equal education” (NA, Box 1, Folder 3, p. 1) and that the finance system itself “denies Complainant children and their class educational opportunities and resources substantially equal to those enjoyed by children attending other Defendant school districts” (ibid, p. 3).

Differences in dollars resulted in tangible differences in educational quality, as argued by Gochman.

Dr. José Cárdenas, being interviewed for an oral history for the Tejano Voices Project recalled:

“I think that at the time when the school systems were governed and administered by non-Hispanic personnel there wasn't very much of an attempt for any kind of accountability. Even the school districts themselves...did not have a systematic, let's say review. City School District or the Edgewood School District in the 1960s, early 1960s, were fully accredited school districts in spite of the many shortcomings . . . And I know them because I taught there in Edgewood and I worked with Crystal City. In, in spite of the fact that I was teaching science without any science equipment whatsoever, it was just a reading type of activity. And, in spite of the fact that some school districts had anywhere from eighty to a hundred percent dropouts prior to graduation, nobody was really concerned. When you start talking minority school board members and minority administrators, suddenly Texas Education Agency, who was very lax in the hiring of minorities themselves, remember that it wasn't until the 1960s that Severo Gomez was hired as the first Mexican American ever to work in the Texas Education Agency...and then, we find that suddenly they are very concerned about accountability and student performance and things of that nature. I think it is just a question of as long as the school systems were run (and the) government administered by the dominant culture, there was an attitude of the school knows

best. But then, the regulation level of accountability and as minorities started taking control of the schools, a classic example is Crystal City, in which then everybody then gets real concerned as to what's going on in the school district without consideration of what had been going on before.”

Dr. José Cárdenas was a student at the University of Texas when the Gilmer-Aiken bill was passed in 1949. Upon graduation the following year, he decided to pursue a career in education because the bill guaranteed a minimum annual salary of \$2,400, making teaching an economically viable option. After teaching in Laredo, Cárdenas moved to a position at Coronado Elementary School in Edgewood ISD in 1953. “My teaching assignment...like most others in the district, was for a half-day session,” and Cárdenas taught from noon to 5:00 pm each day. “No instructional materials were made available, and expenditures for chalk, pencil sharpeners, maps, paper, pencils...came from my \$2,400 annual salary. There were no support personnel in the school, not even a secretary. The school did not have a library, but a San Antonio Library bookmobile did come around every two weeks” (Cárdenas, 1997b, p. 17). After spending a year at the elementary school, Cárdenas transferred to Edgewood High School as a biology and general science teacher. He describes the facilities at the high school as being worse than at Coronado Elementary. While he no longer had to share a classroom, his teaching space was essentially a wooden shack with tables and folding chairs instead of desks. “The size of the room was so small and the number of students so large that it was necessary for some of the tables to be stacked up in order for teacher and students to enter or leave the room.” Despite the need to rearrange furniture each period or to

accommodate tardy students, he said he was lucky to have a classroom. Another colleague held class in a school bus when it was not in use. He also described several teachers opting to hold class outside under shade trees when weather permitted, rather than use their assigned classrooms. A brand new high school was built and opened in October 1954, and funding for the building came from federal impact aid funds. Cárdenas was assigned a new biology lab that had both water and gas connections, but no containers or Bunsen burners. While the school was a major improvement, there was no equipment for science and many other subjects nor available or budgeted money to acquire materials. “It seemed strange to be teaching biology in the absence of a single microscope in the entire high school” (p. 16).

Following teaching, Cárdenas became a school principal at Stafford Elementary. The school had about 1,200 students, 40 teachers, and no support personnel except for a school nurse who was on campus for half a day once a week. Cárdenas left the district to work on his Ph.D. at St. Mary’s University and to work at the Southwest Educational Development Laboratory in Austin before returning as district superintendent in 1969. “Clemente Saenz, president of the board of trustees, recruited me for the job. Many years later, I said to Clemente Saenz, ‘If I had known the financial condition of the Edgewood School District, I would have never taken the job.’ To which Saenz replied, ‘I know it. That’s why we didn’t tell you.’ “ (1997b, p. 17).

By 1968, the high school had Bunsen burners, but still lacked supplies for science. Demetrio Rodriguez described the facilities at the time saying, “They didn’t have equipment. What they did have was junk.” He said students would use the Bunsen

burners to heat up tortillas because the schools lacked the basic science materials necessary to do anything else. Rodriguez also described how this lack of funds for science impacted the biology classrooms. Though dissections are often a staple within the Biology curriculum, there was no money to purchase frogs for this purpose. If the biology teacher wanted the classes to dissect frogs, he had to go out and catch them himself. The “Edgewood Concerned Parents Association was started in 1968. Parents started complaining about the conditions in the schools and other things. They had uncertified teachers and a lot of the schools were run down. This one here (referring to the school down the street) was Edgewood Elementary, but it is Perales now. They had broken windows. At Edgewood Junior High it had a lot of bats on the third floor.” According to Rodriguez, the plumbing at the school had never been properly connected, and bats were able to get into the school through broken pipes. It would have been a fairly simple fix, but the district lacked the money or workers for maintenance. Instead, the problem took some time to correct and the junior high shut down in the interim (Rodriguez, 2011).

In addition to poor facilities and access to educational materials, Edgewood’s lack of funding impacted teachers as well. First, the district had a difficult time attracting and retaining teachers. The district could only afford to pay minimum salary. This, coupled with poor facilities, a lack of materials, and overcrowding often meant that teachers opted for better compensation and conditions in San Antonio area schools other than Edgewood. Cárdenas stated, “Prior to the school finance reform effort, low wealth districts did not even try to compete with their wealthier neighbors. The available labor

pool to low wealth school districts consisted of applicants with limited training and experience and unable to meet the minimum state requirements, personnel retired from other occupations seeking a second career, and in some cases teachers found inadequate by other school districts” (Cárdenas, 1997b, p. 22). While some qualified teachers did willingly seek employment in the district, they were few of them. At that time, state regulations allowed a district to hire almost anyone under a temporary or emergency certification. The district was then supposed to outline a deficiency plan and work with those teachers and local colleges or universities to “remove” these deficiencies and end up with a certified teacher. In 1969, over half of the teachers in Edgewood ISD were employed under emergency certification (Cárdenas, 1997b). According to the papers and writings of Dr. Cárdenas, he took the challenge of increasing the number of certified teachers in the district seriously. He used federal money through Title I and the Model Cities Program to focus on teacher training. By the time he left the district in 1973, the number of uncertified teachers had decreased considerably and teacher turnover had been reduced to 9% (Cárdenas, 1997b; Cárdenas, 1997a; Cárdenas papers).

Teachers and staff were also often misaligned with the student population they were working with. In 1953, the district employed only two counselors, and neither spoke Spanish. Though the students were almost exclusively Mexican American, there were few non-white teachers in the district, and an extensive language barrier between parents and teachers and staff members existed. “PTA meetings were conducted in English which precluded meaningful participation by 50 to 80 percent of the parents in the various schools. (It was) the attitude of the time that (it was) preferable to not

communicate than to communicate in a language other than English” (Cárdenas, 1997b, p. 26). Cárdenas became the first Mexican American administrator in the district in 1955, and later the first Mexican American superintendant in 1969.

### **Factors of the Social Context of San Antonio**

“There has been a pattern of discrimination against Mexican-Americans in the Southwestern United States (those states having common borders with Mexico), including the state of Texas. Such discrimination has resulted in a generally poorer education, more substandard housing, more limited job opportunities, smaller incomes, and more deprivation of civil and political rights for Mexican-Americans than for other white Americans in Texas. EISD has a very high concentration of Mexican-Americans. Its residents have on information and belief lower incomes, more substandard housing, poorer education, and more limited job opportunities than do residents of Defendant school districts other than EISD. The tax and financing system of the Defendant school districts results in further discrimination, and the laws providing for such a scheme are therefore unconstitutional. The discrimination is willful.” (Gochman, 1969, NA, Box 1, Folder 3, p. 3).

A second clear theme that led to the filing of the Rodriguez case is the social context in which the case developed. This theme is related to the previous economic theme in that most families who moved into the area that became Edgewood ISD did so because they could afford to live there. Conversely, these residents were unlikely to be able to afford to live in a school district like Alamo Heights. This theme, however, is not

strictly about school level economics. Further, this theme is not about familial economics or wealth alone. This theme involves a combination of factors such as race, wealth, geography, and housing patterns that existed in San Antonio. Within this section, I present this theme through a narrative about the history of San Antonio that acknowledges the historic racism that contributed to school level and quality. Understanding housing patterns, for example, provides a basis for understanding why Edgewood served and continues to serve a predominately Latino student population. This theme includes attention to neighborhood geography, housing, education, and city contexts.

#### **Neighborhood geography.**

*Income and poverty.* It is one thing to think about differences in income levels or property values in Bexar county from a strictly monetary accounting as presented before the courts, but it is quite another to consider how such economic differences impacted the lives of people. For example, hunger was an issue for many families within Edgewood ISD. When Cárdenas became superintendent in 1969, a principal in the district brought up a campus problem with students getting into the garbage cans outside of the school cafeteria at a district administrators meeting. Upon closer examination of the problem, Cárdenas discovered that only 500 of 18,000 eligible students were participating in school lunch program. Rather than responding in a way that punished students or required closer monitoring of trash cans, as proposed by several campus principals, Cárdenas instead worked to increase awareness and enrollment in the program. In the late 1960s, San Antonio was one of the poorest cities in the United States. More than



half of San Antonio residents lived in poverty, and of those, the majority live in the west and south sides of the city. At that time unemployment rates were 3.7% nationally, 4.2% citywide, but 12.9% for barrio residents.

Joe Bernal's father passed away when he was still a young boy, but he had worked for the railroad and left a pension for his family. In spite of the pension, Bernal grew up in poverty conditions. His mother was never employed and took care of the family instead. Bernal remembers coming home after school each day and his mother had hot tortillas for the children, sometimes with butter and a little cinnamon and sugar. When money was especially tight, the family would get food, such as milk, butter, or dried apples, from their church, Our Lady of Guadalupe Catholic Church. Church was an important aspect of life in the Bernal family. Bernal and his younger brother made First Communion at the same time, and he still remembers that his mother purchased white suits for both of them, though he has no idea where the money came from. To help out financially, Bernal took on jobs growing up including shining shoes, unloading trucks at the outdoor market downtown, and selling surplus canned food door to door. He remembers unloading the produce trucks before school started in the mornings and getting paid in food or maybe 25 or 50 cents. Then, he would take the money home, wash his face, and go to school. He also contrasted the conditions of his upbringing with his cousins that worked for the U.S. Postal Service. "Well educated. At least high school...and back then if you worked in the post office you were a high paid Mexican. Good benefits. Very unusual. You could move to any part of town. You didn't have to stay on the west side." He grew up in a house that consisted of two rooms, a small

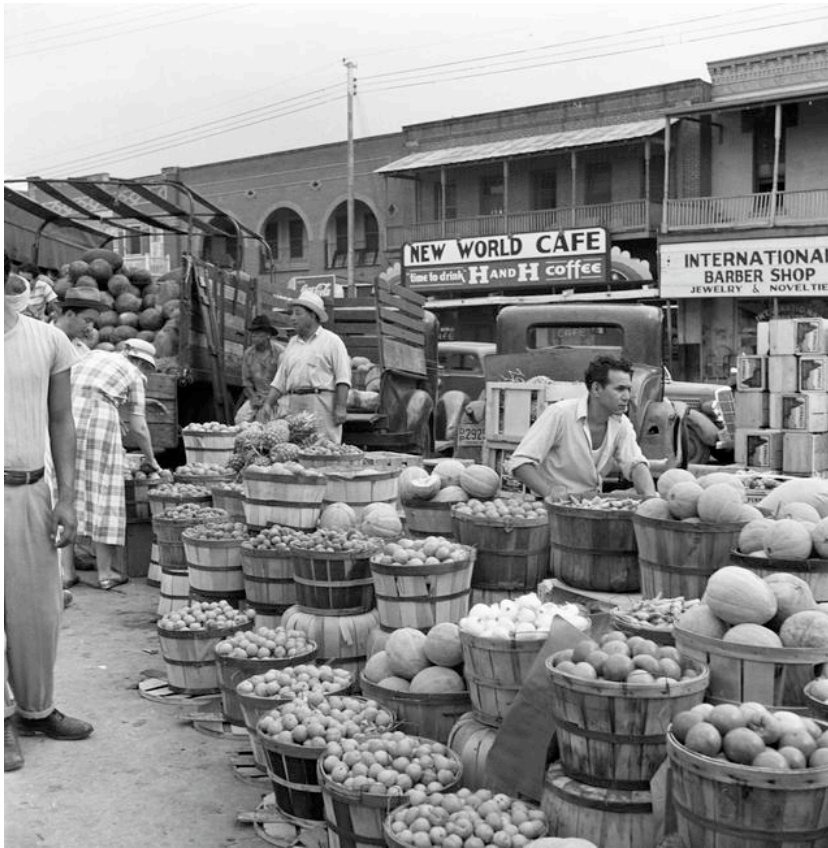
kitchen and a screened in porch. He and his siblings slept on the floor. “Politically I used to use it to say *si duermes en el piso no te puedes caer* (if you sleep on the floor you can’t possibly fall). That to me represented the state of and condition of the community” (Bernal, 2003).



Shoes shine boy. (In barbershop) (Lee, 1949)<sup>4</sup>

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<sup>4</sup> All captions from historic photographs are direct quotations from the captions used with Russell Lee’s original photographs. Much of the information for these captions was collected by his wife, Jean Smith, who was also a journalist and worked with him on the *Study of the Spanish-Speaking People of Texas* project.



The fruit and vegetable market. San Antonio, Texas. (Lee, 1949).

Rosie Castro's mother worked as a maid who often cleaned houses in Alamo Heights. Her mother might bring home eight dollars for a full day's work. Even if she earned eight dollars everyday of the year, she could only bring in \$2,912 annually. Castro remembers that her mother was never home for holidays because she had to work at parties. "I can remember a lot of resentment about that." Her mother also worked for a group of sisters who, when they could not find something like a cooking pan, would call Castro's house looking for it, "pretty much intimating, in my opinion, that maybe my mother had taken it" (Castro, 1996). Her guardian, who she and her mother lived with, owned the house that they all lived in. Her guardian's father had begun paying for the

house many years before. Castro recognized that they must have appeared quite middle class because of the house and owning property, but she remembered money being very tight. “I remember times when my guardian and my mother would put us all to pray because there was no more money in the house. There was literally no money. There was no food. I think they did a good job of providing, as best they could because they always worked.”

*Geographic distribution of race and income.* According to the 1782 Census in the Bexar Archives, there were four “descendent classifications”—Spanish (Spanish, either born on the peninsula or to Spanish parents in the new world), mestiso (Spanish and Native American), mulatto (Spanish and African), or lobo/a (African and Native American) (Bexar Archives Online, 1782/2002). There might have been other designations, but only these four were used for residents at that time. Jumping to the U.S. Census, “Mexican-American” was a racial category in 1930, and this is the only year that this occurred. In all other years, Latinos in the United States would need to select a racial category independent of ethnicity, language, or origin. In both 1940 and 1950 “Spanish Surname” were options for ethnicity. Spanish Origin, Hispanic, Latino and Chicano have all been ethnic categories, along with categories that collected data on national origin and native language (Lee, 1993). While this section does not present a complete description of the changes in racial and origin identifiers over time, it does exhibit this change and the resulting difficulties in trying to understand longitudinal census data. Further complicating my goal of mapping racial distribution and income levels for the city of San

Antonio is that data at the census tract level are not available for the necessary categories prior to 1960. Census statistics in 1950 and earlier are presented at the county level.

In 1960, the population of San Antonio was 587,718, and of that total, 51% was Anglo, 41% Mexican American, and 7% African American.

"The city's racial neighborhood zones were plainly evident. The East Side was the Black side of town; the North Side was the Anglo side; and the West and South sides were considered the Mexican side of town. Despite some breeching of the walls, the boundaries of the Mexican side were clear in the mid-sixties: Culebra Street from Loop 410 across San Pedro Park to San Pedro Street formed the northernmost boundary; San Pedro Street through downtown, to its connection with Roosevelt, and Roosevelt as far as the Loop formed the eastern boundary; Loop 410 marked a western and southern boundaries of the Mexican side of town, nearly one third of the city in the mid-sixties" (Montejano, 2010, p. 13).

In addition to Montejano's personal experience of growing up in San Antonio, GIS maps of United States Census data provided another way for understanding geographic distributions of race, housing, and income. While census categories changed over time, an attempt was made to map corresponding categories for 1960, 1970, and 1980 census years. For example, Spanish Surname was used on the 1960 Census, but Spanish Origin was the closest category for the 1970 and 1980 censuses. Data regarding housing values are reported as median values in 1980, average values in 1970, and a vast array of housing conditions were collected in 1960 pertaining to housing quality and amenities. The map represents the percentages of adequate (or "sound") housing. Sound,

deteriorated or dilapidated were the actual category names on census documents, and further categories accounted for various plumbing conditions, electricity, telephone lines and so on. These amenity categories were used in combination with the quality of housing categories creating overlap in data. As a result, this map only shows the concentration of adequate housing with all amenities. Areas with lower concentrations had some combination of lower quality housing or a lack of amenities. Income is illustrated by household income percentages below \$6,000 per year for 1960 and 1970 while average family income is displayed for 1980.

### Percent Spanish Surname for Bexar County — 1960 Census

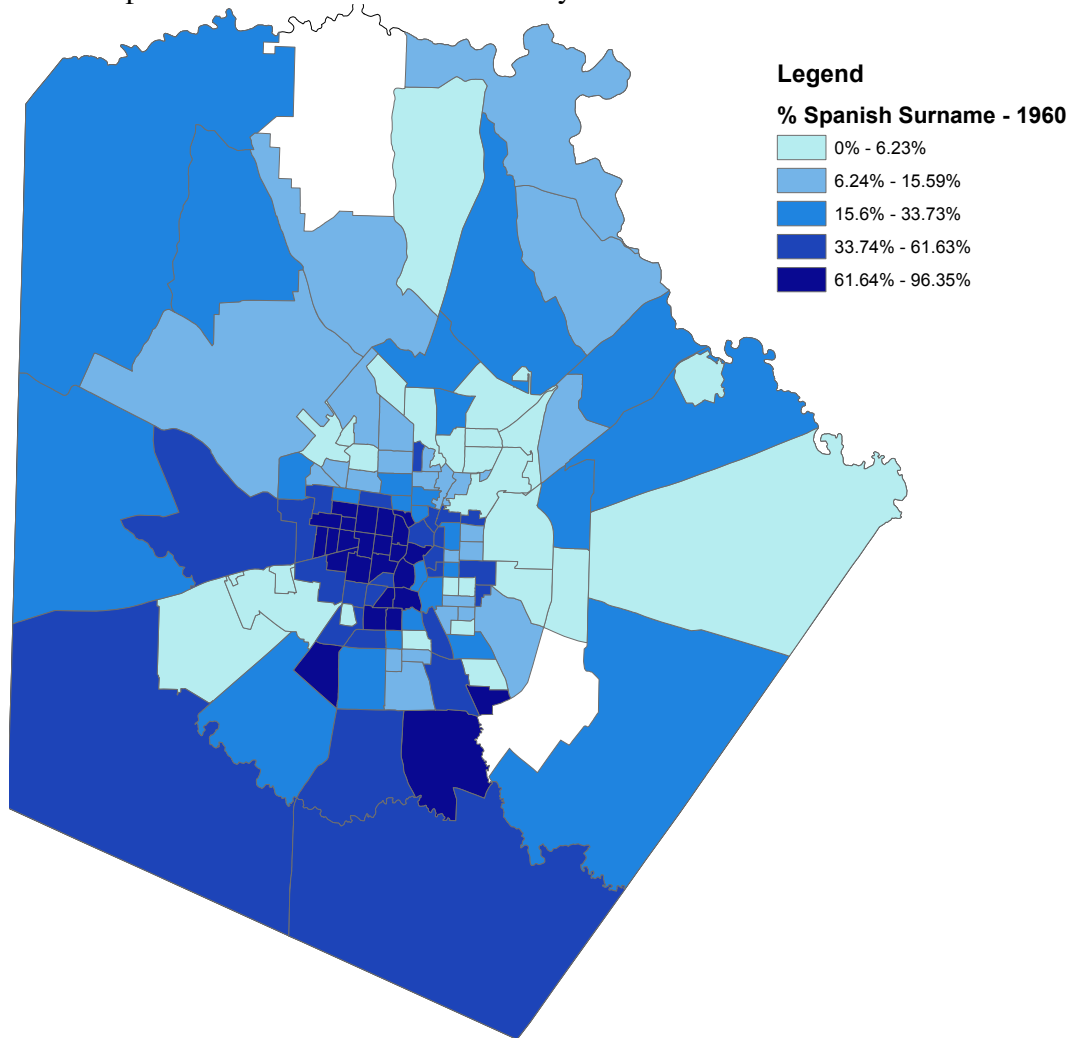


Figure 3

# Percent Spanish Origin for Bexar County — 1970 Census

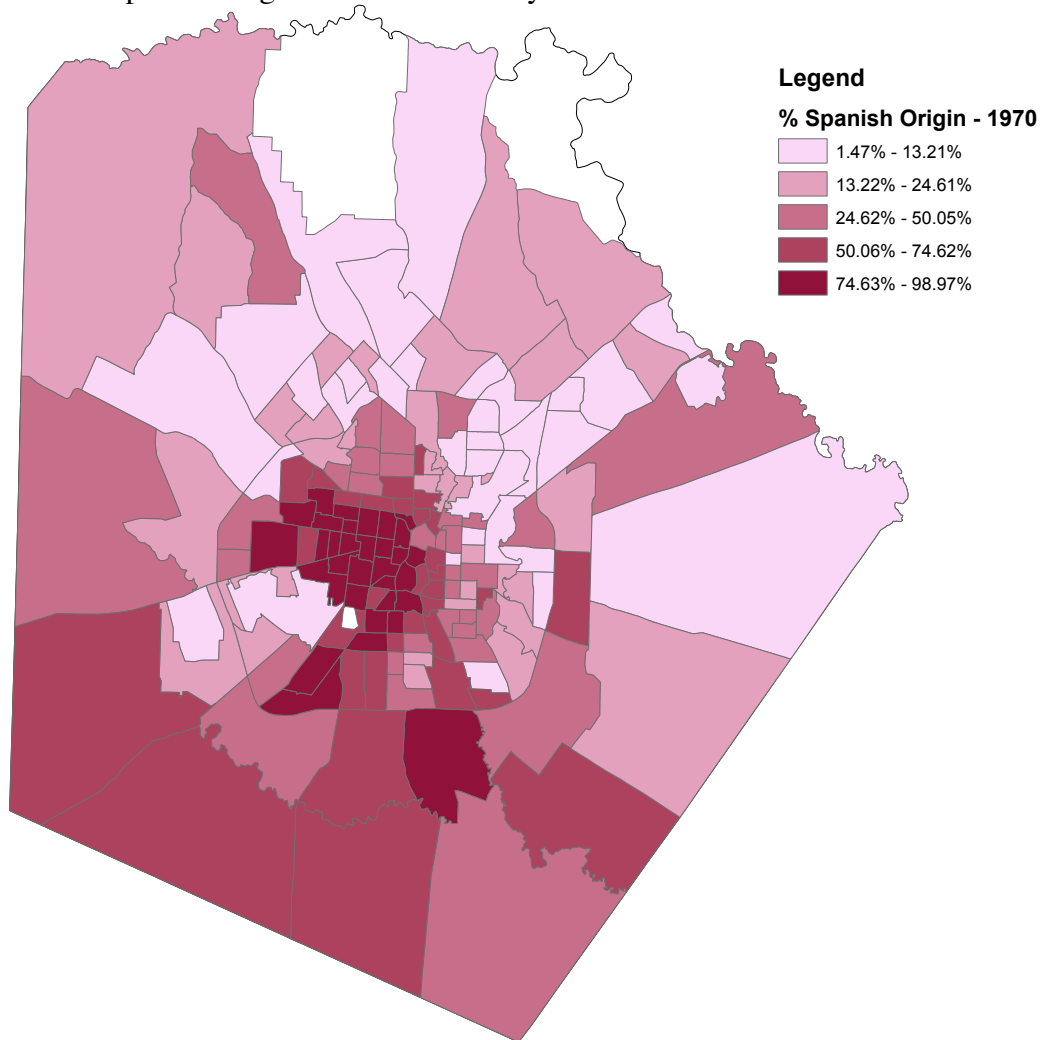


Figure 4



# Percent Spanish Origin for Bexar County — 1980 Census

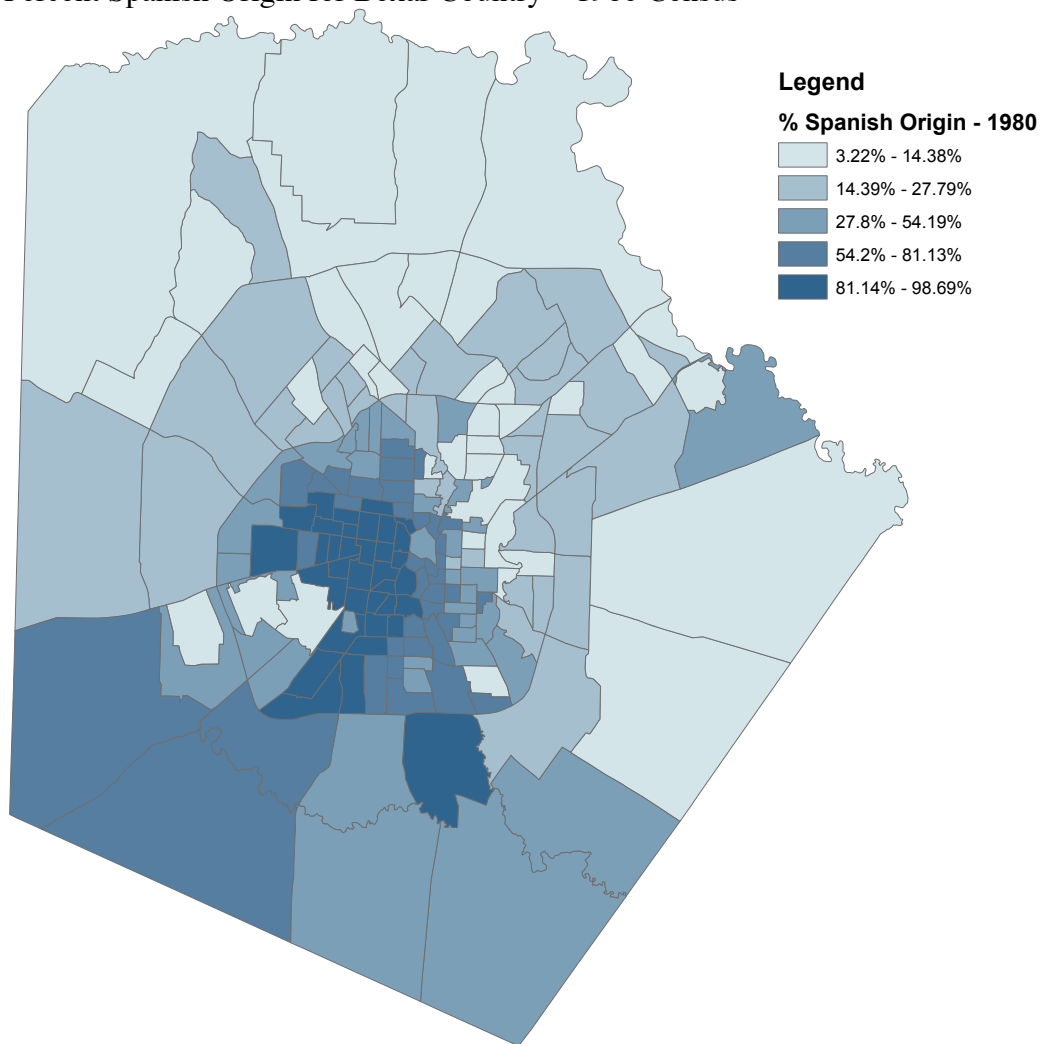


Figure 5

Percent Household Income Below \$6,000 per Year—1960 Census

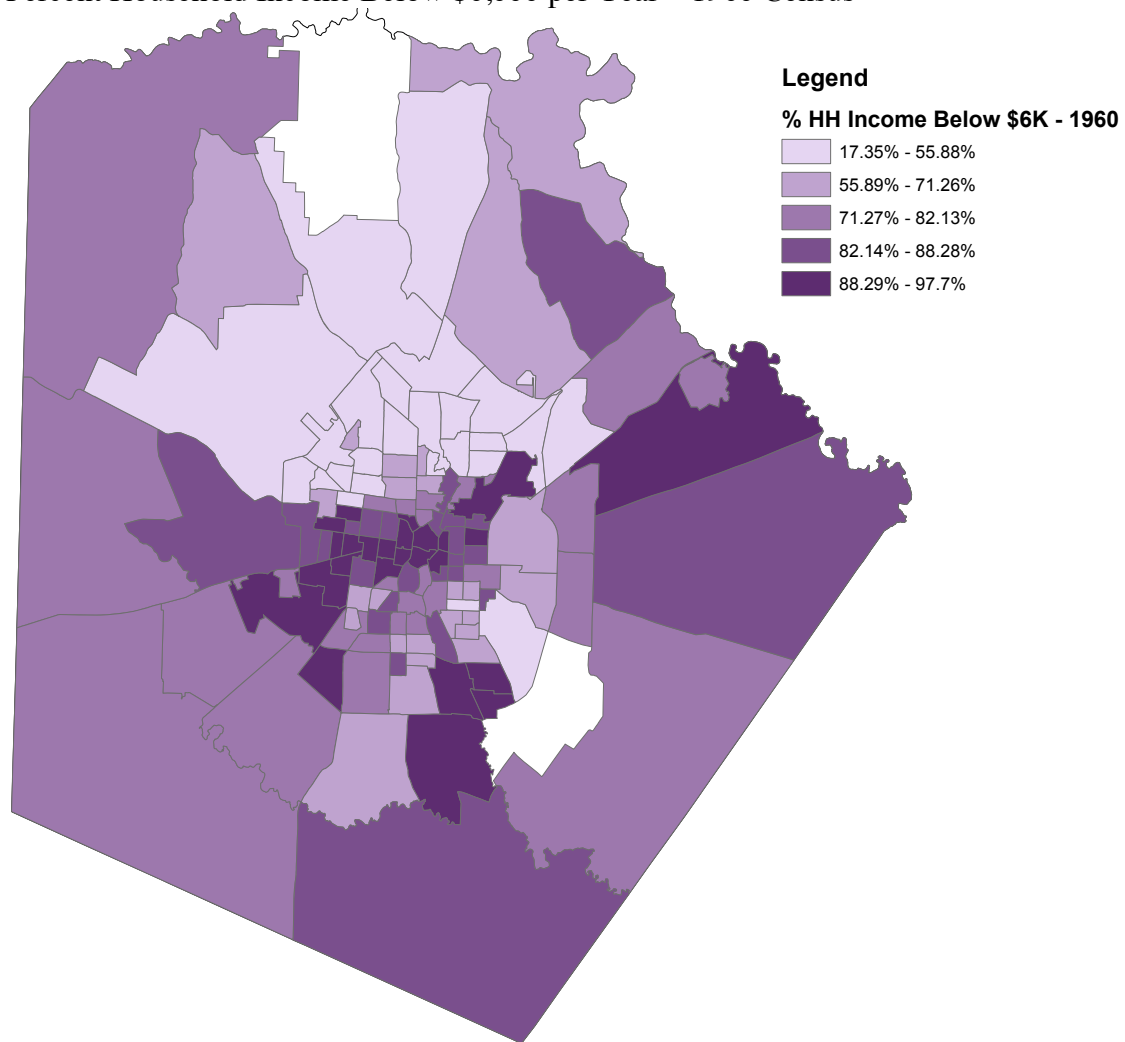


Figure 6

Percent Household Income Below \$6,000 per Year—1970 Census

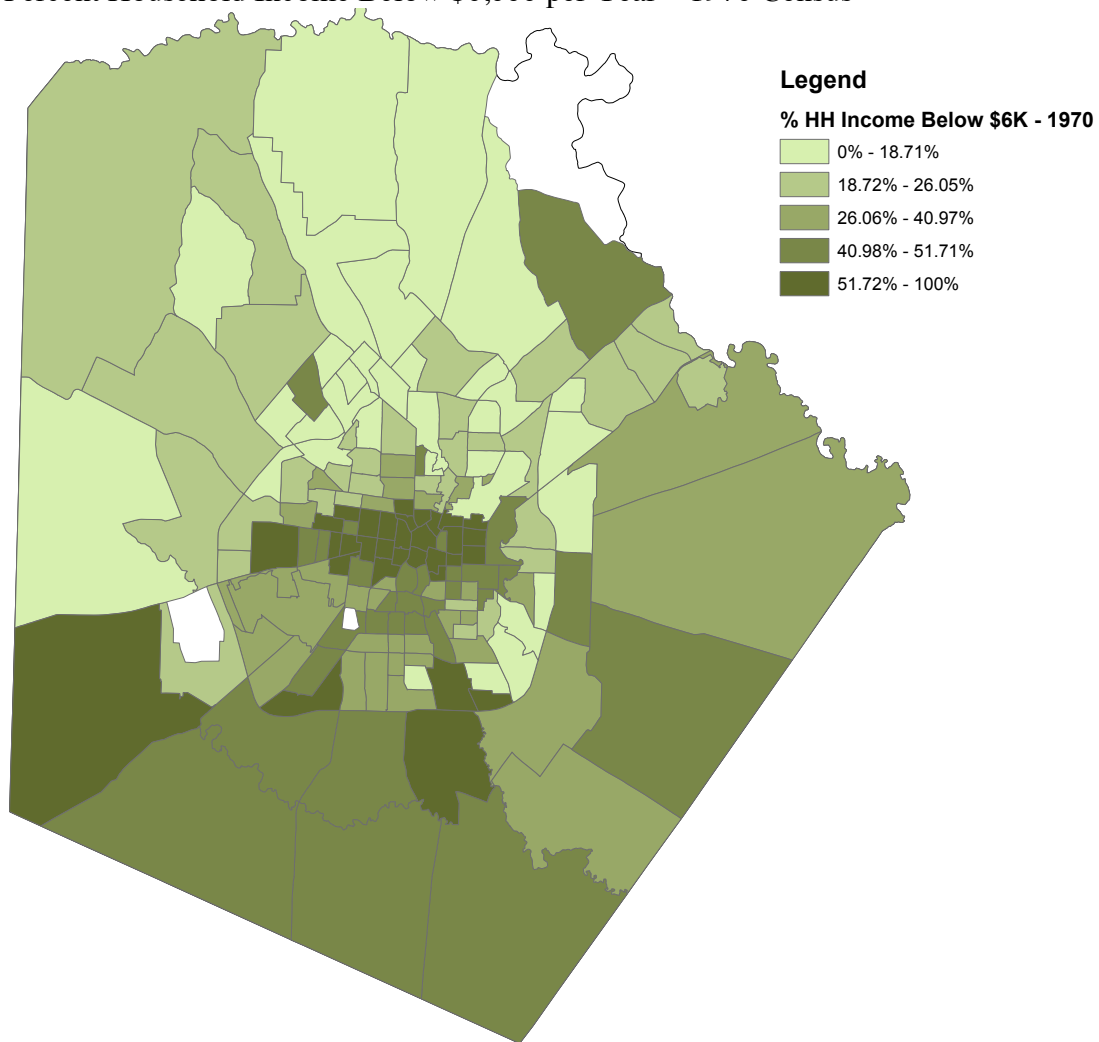


Figure 7

# Average Family Income—1980 Census

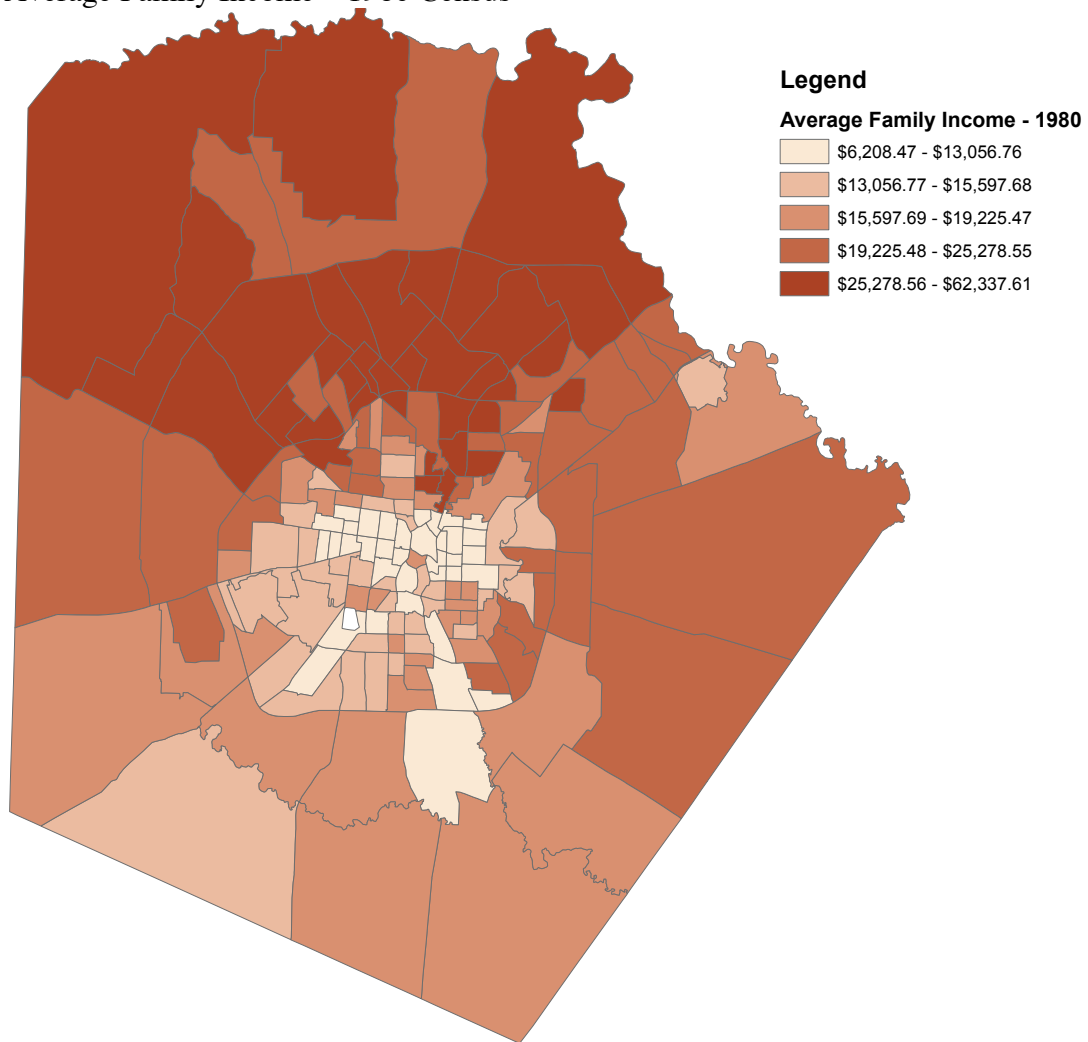


Figure 8

# Percent Adequate Housing—1960 Census

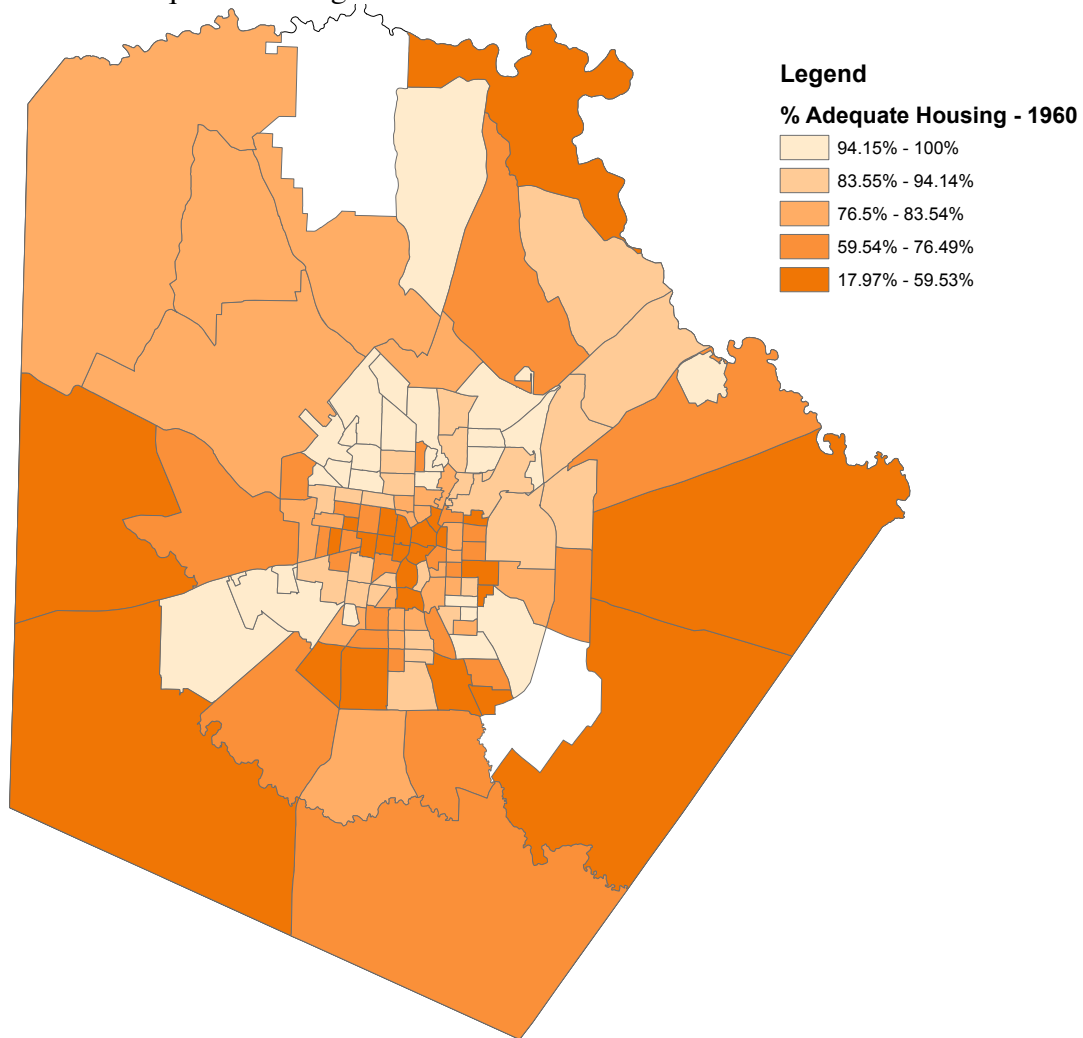


Figure 9

# Average Housing Value—1970 Census

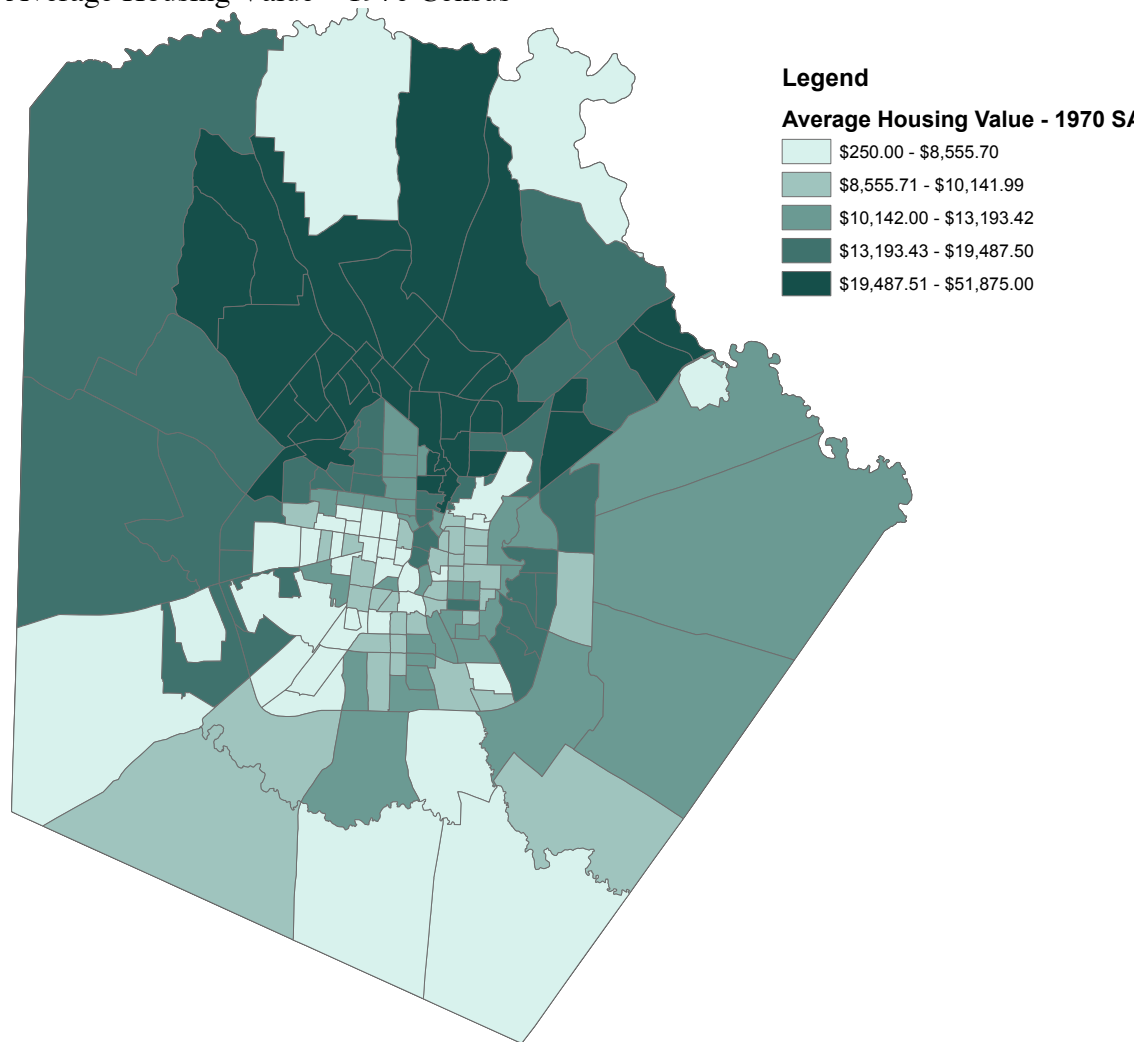


Figure 10

Median Housing Value—1980 Census

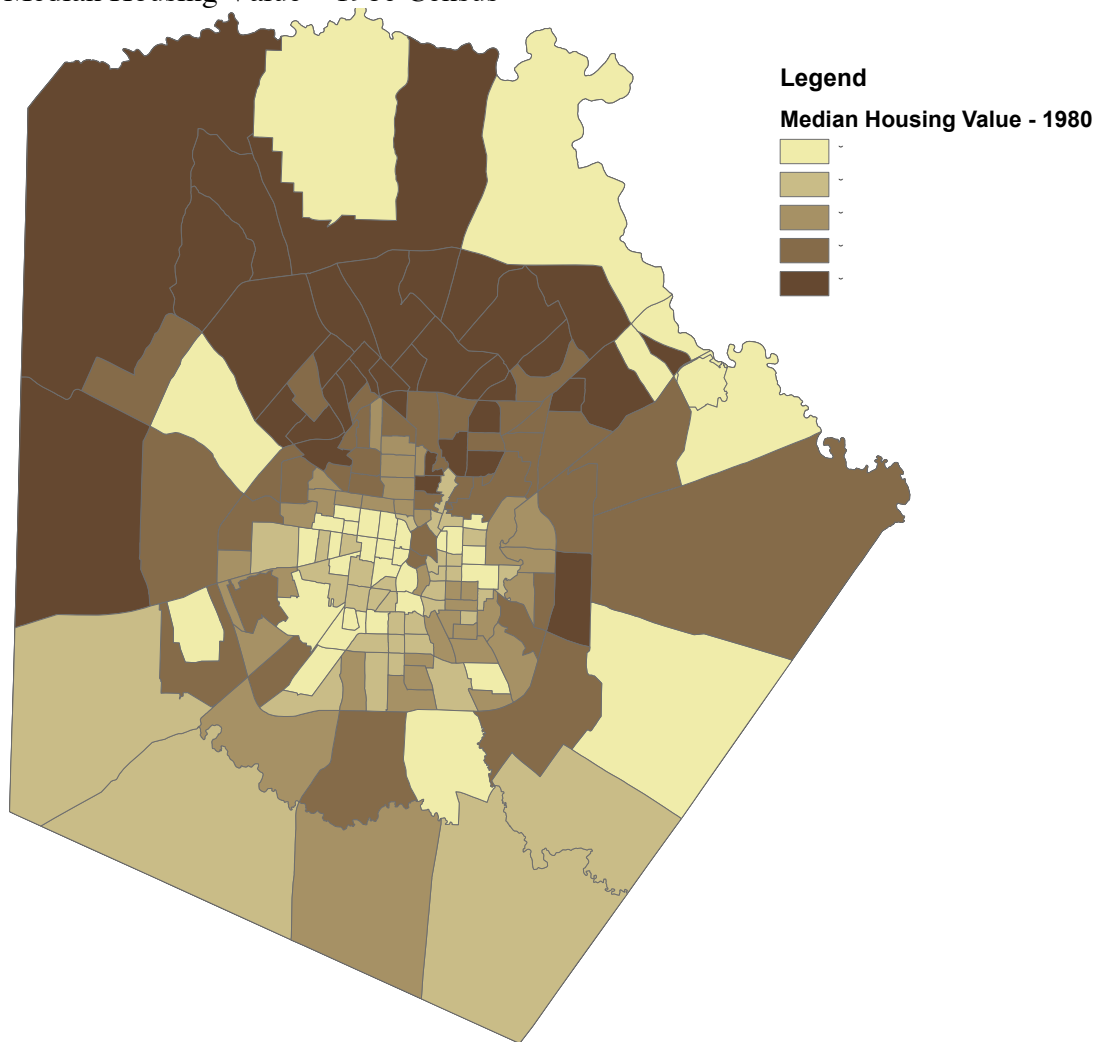


Figure 11

In addition to understanding the racial geography of San Antonio through census data and maps, the stories and experiences of those who lived in this environment contribute to our understanding. Because her mother worked so much, Castro often went with her mother to job sites when she was not in school. She described a sharp distinction between how people lived in different parts of San Antonio and the racial divisions that were present. The houses that her mother worked in belonged to wealthy, and presumably, white residents of Alamo Heights. Much of this racial geography continues today. Interestingly, Castro grew up in a house on Laurel Street, south and west of the intersection of Zarzamora and Culebra Road. She described this location as being a black enclave within the west side of San Antonio. In her area, there were only about seven or eight Latino families.

By contrast, Joe Bernal grew up in a house on Colorado Street behind Brackenridge Elementary School. “I had no contact with Whites and Blacks,” he said early in his oral history. After probing, he remembered that there was only one black family that he could recall anywhere in his neighborhood and that the only white people he remembers growing up were his teachers. He remembers looking up to his white teachers in spite of his mother’s disinterest in learning English because, “They were the smartest people on earth because they had good jobs. They spoke good English.” Bernal describes that he stayed within his west side neighborhood for much of his childhood. It was not until he traveled to other schools in the San Antonio area as a member of the



junior high basketball team that he saw how different his neighborhood was from other parts of town. He remembered seeing nice houses with yards, and from that point on, he grew up with the aspirations of wanting to help the west side. Montejano writes, "Segregation was not just a question of separate systems, but of hierarchy and authority as well. Generally the only Anglos who entered the barrios were police officers, teachers, and social workers. Anglos were essentially individuals with authority" (2010, p. 14).

### **Housing conditions and amenities.**

***Flooding.*** One pressing issue in San Antonio, particularly the west side, was flooding. "When I started teaching in Edgewood in 1953, there were only four or five paved streets in the entire district, and there were no sidewalks. After a hard rain, water and mud made the streets impassable, it is not a usual for more than half of students to be absent from school. In a 1972 conference on school finance, I mentioned during an argument over the use of enrollments or attendance for calculating state aid that '... our [Edgewood] personnel office has estimated that every time it rains in Edgewood school district between 6 and 9 a.m., we lose 12 teachers at our school system under the existing [state funding] formula' (Cárdenas, 1997b, p. 28)." Cárdenas went on to describe culverts constructed as part of San Antonio River flood control measures in the 1950s. These structures diverted rainwater from the northwest part of town then traveled southward and terminated on Culebra Street near St. Mary's University, which is the northern border of Edgewood ISD. The system essentially took all the water from northwest San Antonio and dumped it into Edgewood.



Houses and streets on a rainy day in the south section of San Angelo, Texas. Electricity and running water are available in this section but many of the houses do not have connections. Most families use open privies. San Angelo, Texas. (Lee, 1949).

Though this photograph was taken in San Angelo, problems with flooding in San Antonio and other areas were similar to what is shown here. Flooding was an issue, not just for transportation, but because of the lack of adequate water and waste water systems in many of these areas, flooding presented problems for health and sanitation for residents, as well.

*Utilities.* Additionally, many houses on the west and south sides of town lacked connections to utilities. As the population increased in the Edgewood area, city services did not keep up. Following World War II and the increase of suburban housing, utility connections often moved out beyond existing housing to make connections but continued to neglect areas like Edgewood. “The western part of the district was not provided water

or electricity by city-owned utilities. As a teacher at Coronado Elementary School I remembered the children smelling of kerosene fumes when they arrived at school. Water was purchased by the barrel from an entrepreneur who distributed it from a tank pulled by a pair of mules. Each house had a drum in front from which the occupants drew their drinking and washing water as needed during the day. By 1961, the only improvement in the distribution of water was that the mules had been discarded, and the water tank was pulled by John Deere tractor.” (Cárdenas, 1997b, p. 28).



Private water vendor. He sells water at an average of thirty five cents a barrel to people living inside the city limits but without water connections. No attempt is made by the city to regulate the sale of water or enforce any sanitary measures. (Lee, 1949).



Children having a bath in the back of their slum corral home. People living in the corrals get their water from an outside faucet; because one faucet serves several families the landlord pays the water fees. Some tenants say the landlord objects to too much bathing, excessive use of water by dirty Mexicans. San Antonio, Texas. (Lee, 1949).



Real estate sign. (Lee, 1949).

The sign above was advertising land for sale in a part of San Antonio that becomes part of Edgewood ISD. Promises of easy payment options for lots, water connections, and gravel roads did not always come to fruition as many homes and

neighborhoods went without water long after housing was built. This neglect of services, utilities, and roads along with the presence of substandard housing illustrates that parts of San Antonio developed like colonias. Before 1957, San Antonio had no city ordinance or mechanism for governing housing policies. According to Charles Cotrell, on the west and south sides, many home were classified as needing rehabilitation while others were deemed beyond rehabilitation. Only 20% of houses in this area met the new San Antonio Building Code. These conditions can be linked to both the legacy of race based restrictive covenants and lending laws and “to the fact that the zoning commission had not been aggressive in protecting the residential quality of life in the South Side as compared to that on the North Side. Indeed, city administrative practice had been to spend on monies for improvements on the expanding North Side of San Antonio at the expense of other sides of town" (Montejano, 2010, p. 24, from U.S. Commission on Civil Rights *Hearings Held in San Antonio*).





Slum-corrals built in 1913 and occupied continuously since then. The twenty two units now rent for \$5.50 monthly each. Six outdoor flush type toilets and one shower are provided for the more than one hundred people. There was no evidence of any regular repair or maintenance work by the landlord; however the interiors were neat and clean and many tenants had painted the inside walls, repaired screens, etc. San Antonio, Texas. (Lee, 1949).



Corral dwellings. This corral of about twenty four units is more than thirty years old. Each unit rents for \$8.50 monthly. No gas, no electricity, outside water faucets; eight outside flush type toilets. San Antonio, Texas. (Lee, 1949).

***Housing.*** In addition to single-family homes and “corral” houses, the west side was also home to several large housing projects. Joe Bernal grew up near Our Lady of Guadalupe Catholic Church. “My home away from home, was the backyard of Guadalupe Church.” Father Tranchese was a Jesuit priest at Guadalupe who became well known for trying to improve housing conditions in the area. He wrote to the United States Housing Authority (USHA) and to First Lady Eleanor Roosevelt, asking that something be done about the substandard living conditions on the west side of San

Antonio. In September of 1937, the San Antonio Housing Authority began work on five housing projects: Alazan and Apache Courts for Mexican Americans, Lincoln Heights and Wheatley Courts for blacks, and Victoria Courts for whites. Ultimately, the USHA provided funding, and Alazan became the first public housing project in San Antonio when it opened in 1940. In just a short time, Alazan and Apache Courts garnered an association with gang activity. “I grew up in a tough neighborhood, you know. I used to shine shoes when I was little and...Well, *habia una bola de pachucos* (there was a bunch of pachucos). They didn't go to school in the *barrio*.” When he passed by they would try to get Bernal to give them money. “I'd come back with a real harsh term and then they would leave you alone. But I don't know whether it was because you were willing to fight with them or because you had six brothers that were older. But they were always trying to, take a nickel or a dime or whatever, you know. And if you dare (to) go downtown then you would run into a gang that used to hang around the Boys' Club, and you'd dodge that because a real gang was there” (Bernal, 2003).

David Montejano is a native of San Antonio and grew up in the Edgewood School District. In the introduction to his latest book, he writes, "My neighborhood was a poor, working-class neighborhood surrounded by poorer neighborhoods on three sides. Early run-ins with the ‘young pachucos’ in neighboring housing project reinforced a sense of caution and parental encouragement to stay away from those kids. On a fourth side of the neighborhood, across a wide thoroughfare, was the beginning of the middle-class Anglo North Side. The name of the avenue was Culebra, meaning snake, a seemingly appropriate name for the line of separation between Anglo and Mexican at the time. I



recall as much tension when crossing Culebra and walking through the Anglo neighborhood as when walking by Menchaca Courts” (p. 6).<sup>5</sup>

While Lee did not take photographs of housing projects in San Antonio, he did record similar housing in Corpus Christi. Like in San Antonio, these low-rent developments were originally segregated by race. On photographs of the Wiggins Homes projects, Lee noted that these dwellings were originally designated as housing for whites only. In 1948, the Corpus Christi Public Housing Authority removed this restriction and many Latino families moved into housing there. “Some Anglos moved to other housing projects; some Anglos with above maximum incomes moved to private housing. Wiggins Homes is now almost exclusively occupied by Latins but at no time has there been conflict, according to the Corpus Christi Public Housing Authority” (Lee, 1949).

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<sup>5</sup> In *Quixote's Soldiers: A Local History of the Chicano Movement, 1966-1981*, Montejano provides more details regarding neighborhood organization, gang conflicts in the 1950s and 1960, as well as the inclusion of gang members into the Chicano movement in San Antonio.



Scene at Navarro Place, a 210-unit public low-rent housing project occupied exclusively by Latin-Americans. The maximum income limit for admission for families with two or less minors is \$2280; for families with three or more minors this maximum income limit is \$3000. Corpus Christi, Texas. (Lee, 1949).



A ditch directly across the street from Navarro Place public low-rent housing project, Corpus Christi, Texas. (Lee, 1949).

I spoke to Demetrio Rodriguez in his home on Sylvia Street in San Antonio. The house itself has white wooden siding and the family name on a plaque written in blue hanging on the eave at the front of the house. He has lived in San Antonio since he was seven years old, and moved to this house with his young family in 1960. Rodriguez is 85 now. We sat and talked in the main room of the house, while his son Alex, who was named in the legal suit, mowed the grass and worked on other projects for his father.

From what he remembers, the Edgewood area began as migrant housing and that “mostly all the people that lived here were migrant workers. They migrated north to work.” He also remembered that in many areas there were no sanitation or city services (Rodriguez, 2011).



A street corner. (Lee, 1949).



Bottom, the same house today, located at the corner of SW 19<sup>th</sup> Street and Colima. (Atwood, February 26, 2011).

About one third of the Edgewood district was included in the federally funded Model Cities Program of San Antonio that began under the Johnson administration. This section of Edgewood alone was targeted for the construction of 16,000 rent subsidized multiple family housing units. Though housing improvements were needed, the Kerner Commission advised against this level of high density housing for minority and poor residents. Out of concern, Cárdenas discussed the proposed housing with then mayor Walter McAllister. Estimates showed that these new housing projects would generate 32,000 additional students in the district, even though the district could not adequately fund current enrollment numbers. McAllister was unresponsive to these concerns stating, "the problems of the Edgewood School District are of no concern to the city of San Antonio" (Cárdenas, 1997b, p. 29). The district filed a federal suit concerning this issue, and following the court ruling, the decision was made to move the housing sites across Culebra Street and into Northside ISD "which immediately changed from a school

district with a 25% minority enrollment into a district with a majority enrollment of minority students. The business community was just as unsympathetic to the plight of Edgewood...Edgewood was seen as a plentiful source of cheap labor prior to cheap labor becoming an obsolete unwanted resource with the advent of information, service and high technology industries" (Cárdenas, 1997b, p. 29).



Note that in this picture of a fairly new house there is already a small house in the backyard. (Lee, 1949).



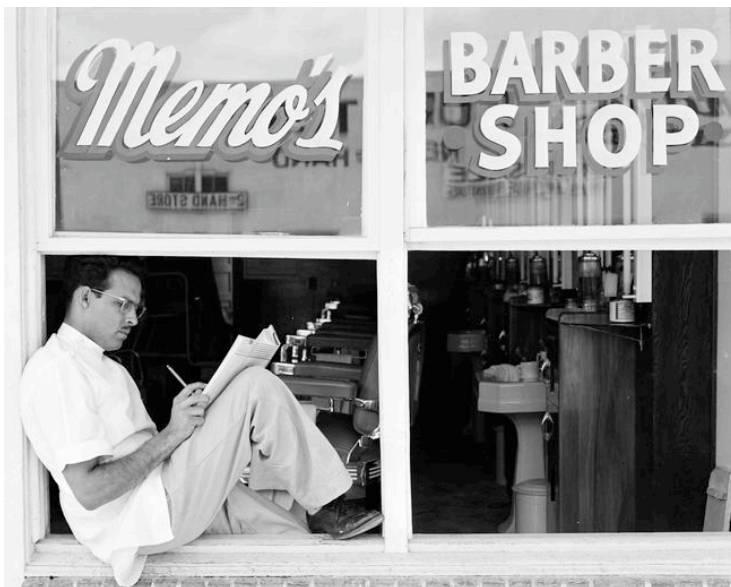


Back yard. Often a family who owns a lot and have their house on the front of the lot, rent out pieces of the lot to other families who build their houses thereon; crowding such as this, which seldom shows from the street, is the result. *Author's Note—This is the backyard of the house in the previous photograph.* Lee, 1949).

### **Education and Schooling.**

***Parental education and educational opportunity.*** In a 1972 proposal for a U. S. Office of Education Experimental Schools Program grant, Superintendant José Cárdenas wrote: "A recent survey of parents of the children in the district's 25 schools revealed that only one half of one percent are in professional occupations. 10% are in skilled labor, and 80% in unskilled labor occupations. Unemployment, substandard housing, and a scarcity of health, sanitation and other public services typify the area. As far back as 1967, a U. S. Department of Labor study... noted that: '... the sub-employment rate in that area [the hard-core slums of San Antonio, including most of the Edgewood District]... is a startling, sobering 47.4%.' It was noted in the survey that: '70% of the unemployed did

not graduate from high school; 48% of the employees did not go beyond the eighth grade; 6.5% had not gone to school out all” (Cárdenas, 1997b, p. 27). Rosie Castro’s mother did not continue in school beyond the 4<sup>th</sup> grade (Castro, 1996). Both of Joe Bernal’s parents attended Navarro Elementary School in San Antonio, but neither went to school beyond that. His oldest brothers also dropped out of school when their father passed away to earn money for the family (Bernal, 2003). Demetrio Rodriguez did not complete high school, but later had a job as a skilled worker at Kelly Air Force Base (Rodriguez, 2011). On one hand, parental educational levels clearly link to economic concepts like income, potential income, and affordability of housing. On the other hand, it is also important to understand the deeper implications of what schooling conditions were for Latinos in Texas. Inequitable education, including segregation and English only policies, likely contributed to lower educational attainment and income.



Night adult classes at Central and Winn Seal High Schools are composed largely of Latin-American veterans who are completing grade and high school. Corpus Christi, Texas. (Lee, 1949).



The only Latin-American student in the descriptive drawing class, a part of the vocational training program at Del Mar college. He is a machine shop worker in the daytime and at night is taking such courses in the hope that he can become an engineer. The descriptive drawing class which is part of the vocational training program for veterans at Del Mar College. The classes in machine shop work, auto mechanics, radio, auto body repair and painting, welding, etc. are composed almost exclusively of Latin-Americans. On the other hand, this descriptive drawing class had only one Latin-American student. Corpus Christi, Texas. (Lee, 1949).

The G. I. Bill clearly had positive benefits for many veterans. This bill made it possible for many to attend college or training programs and to further their education and job prospects. However, many Latino veterans lacked a high school diploma, so even programs such as those offered at Del Mar College in Corpus Christi were not intended to prepare students for college. In Lee's photographs, there are several images of Latino students training to become auto mechanics, welders, and carpenters. These were all skilled positions with higher incomes than agricultural and labor jobs, yet the



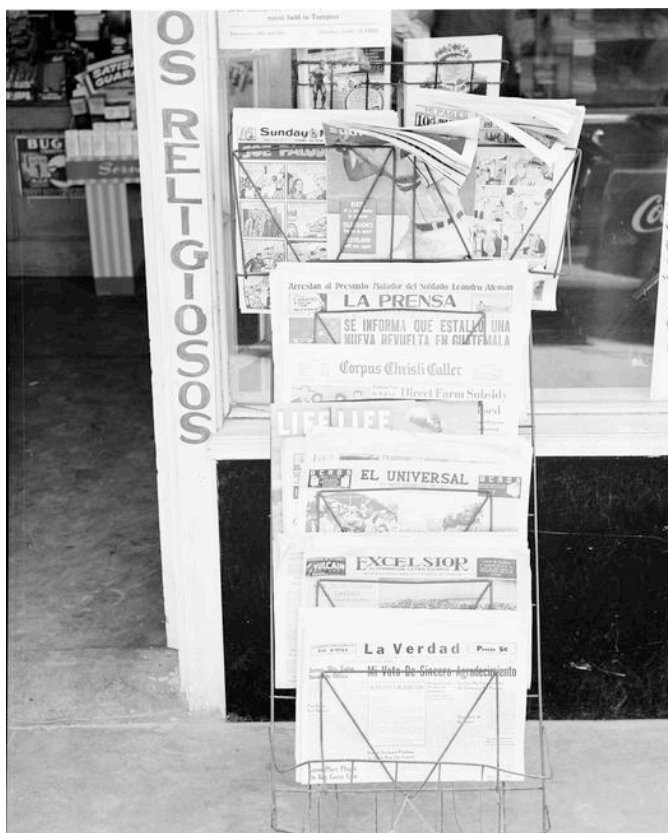
photo above was of the only student in the collection who appeared to be pursuing a path to college.

***Language.*** “As an elementary student in the 1930s, I sat in a classroom trying to participate in an all-English instructional program, although I, and most of the students spoke little English. In the 1950s, I was mandated by state law to teach only in English in spite of the all-Hispanic enrollment having little proficiency in the language. At the beginning of my tenure as a superintendent in Edgewood in 1969, little had changed” (Cárdenas, 1997b, p. 22). While Cárdenas grew up in Laredo, this lack of attention to language differences was common across Texas and the Southwest.

Castro, spoke only Spanish in her early years “and then I lost it” she said because her guardian placed such an emphasis on learning and practicing English. She remembered a story from her mother. Her mother had only gone to school until the fourth grade. “Apparently, some people felt that she had stolen things, some rosaries or something. She was pulled out of school and then she never, basically, went back.” Despite her limited years in school, her mother could read and write in both English and Spanish.

Joe Bernal’s mother only spoke Spanish and never showed an interest in learning English. Bernal remembered his mother saying that her family spoke Spanish and she did not understand why she should bother to learn English. She interacted with Spanish speaking friends and neighbors, her family, and the Church, where all masses were conducted in Spanish. Her world did not require English. He said, “*el barrio todavía hablabamos español* (in the neighborhood we still spoke Spanish)”. Bernal did not speak

English when he first started going to school, but he described himself as a good student who made good grades. He was often picked by teachers to deliver verbal messages to other teachers. He remembered quickly memorizing the lines, and he credits this as his transition into learning English. When he got to Lanier High School, language was still an issue. Many of his classmates did not speak English, and he and many others who did know English still chose to speak Spanish. A Mexican American student at Lanier speaking English would be considered Anglicized and a sycophant by peers. Bernal was a student council member, and he retold how they enacted a project to promote English on campus. Each Monday, the student council distributed ribbons to the student body that said, "I'm an American. I speak English." Then, student council members were expected to monitor students. If a student was caught speaking Spanish, the ribbon was taken away and his or her name was turned in to the appropriate teacher. Reported students were given demerits that would negatively impact grades in English class. Bernal remembered being conflicted about this. While he remembered many parents supporting and wanting children to learn English, "it also created an atmosphere of questioning whether your culture was okay. Whether your language was okay. That began a whole world for me of trying to regain a sense...of being able to be bilingual (and) bicultural" (Bernal, 2003).



News stand in front of a drug store. Corpus Christi, Texas. (Lee, 1949).

***Segregation.*** Segregation in schools took on many forms. In some areas of Texas, there were separate schools for Latino students. Sometimes, schools placed students in separate classes within the school. Segregation could also be at the level of differences in educational quality, such as course offerings or language differences or attitudes of expectation. Regardless of how segregation manifested, and often despite any official laws regarding segregation of Latino students, the results were still vast differences in education for Latino students.

Growing up in San Antonio, Joe Bernal described a lack of course offerings in high school. After finishing high school, he was selected to attend a special Air Force engineering program at Texas Tech University. The students from San Antonio that had

attended either Fox Technical or Lanier High Schools were unprepared for college level engineering. Bernal described both schools as being vocational and technical schools rather than preparing students for a college path. Though Bernal took four years of math in high school, it was three years of algebra and one year of geometry. He and five other students tried to get a trigonometry class together at Lanier. They found a willing and capable teacher, but with only six students interested, the course could not be offered. Additionally, he only took two years of English because English 3 and 4 were never offered while he was at Lanier. Bernal and two other San Antonio students ended up dropping out of the engineering program. Albert Peña went to Fox Tech High School and had similar experiences regarding course options. “They wanted to make an automobile mechanic out of me. They said, you seem like you would make a good automobile mechanic and to this day, I don’t the difference between a monkey wrench and a screwdriver. I had no mechanical aptitude at all.” Yet, he had been pushed in a vocational direction, rather than towards college.

Until 1969, Lanier operated as both a junior high and high school. While at student at Lanier, coach Nino Herrera stood out at the only Latino at the high school among a faculty of about 90 teachers. Bernal recalls two Latina teachers in junior high, but no others in his years as a student. Though the population of teachers was nearly exclusively white, Bernal described Tech, Lanier, and Burbank as SAISD schools that “took in mostly Mexicanos at the time.” This may have exemplified school level segregation in the district or it could have simply been a product of segregated housing patterns. Regardless, Bernal also recalled the racist attitudes supporting segregation from

one of his principals. “I had a very racist principal that in many ways, divulged his racism by comments that he would make (like) ‘you ought to stick to your own people. You don't have to go across town to go to some other high school. You stay here where you belong.’ And I could read into it, at that young age, I could read into it. I could sense it”. Years later, after getting out of the military, Bernal returned to Lanier to watch a basketball game between Lanier and a team from a predominantly black school in San Antonio. The same principal spotted him and struck up a conversation. “He says, ‘See these black kids? They are all black and they are playing all against our own kids over here. That's what society needs to understand, that if you keep the blacks to themselves, if you keep your people to yourselves, then this country can grow stronger because you're culturally separated like that and that separation builds good leadership among that group. And that leadership can excel and make contributions.’ Even at that time when he said that, you know, it kind of didn't fall quite straight”.

When Cárdenas took over as EISD superintendent he had a major problem with the University Interscholastic League (UIL), an organization that oversees academic and athletic competitions in Texas schools. The UIL had established what Cárdenas and others referred to as the “Tortilla Curtain.” In this system, schools with majority non-white student populations, like those in Edgewood, were assigned to districts with other schools with similar demographics and numbers of students. This resulted in a district that included Edgewood, Del Rio, and Eagle Pass instead of one that allowed Edgewood to compete against predominantly white schools in the San Antonio area. (Cárdenas, 1997b, Cárdenas Papers).

Issues of segregation applied to teachers as well as to students. José Cárdenas got out of the Army in 1953 and decided to stay in San Antonio, teach, and work on his Master's Degree at Our Lady of the Lake University. Before teaching in Edgewood, he applied at another district in the area. He said the district was quite interested in hiring him, but that they did not have teaching vacancies in the almost exclusively Mexican schools in the district. He asked if there were vacancies in non-Mexican schools, but he was informed by the superintendant that they did not place Mexican-American teachers in those schools. He applied and was hired to teach elementary school in Edgewood instead. Institutes of higher education were not exempt from social segregation either. Cárdenas lived in a boarding house in Austin while attending the University of Texas. "There were some Mexican American in Austin (but) there were very few of us and I think we kind of stuck together. Not necessarily that we were segregated, I think that we were just not very welcome in many areas of the university and activities" (Cárdenas, 1998).

Sometimes, segregation occurred at the district level. Demetrio Rodriguez remembers Kelly Air Force base having its own school system even though the base is adjacent to Edgewood. "The children of the soldiers, of the air base were educated privately. They had their own school districts. They had money. The people, the ones who make the laws, gave the soldiers that privilege." Rodriguez also suggested that the source of some of the black student in Edgewood at the time of the case were also the children of Air Force personnel who had not been permitted to attend the base school.

This type of school segregation was eventually challenged successfully in *United States v. Texas* (1970) and involved the San Felipe and Del Rio school districts.

Less subtle forms of segregation also occurred in school districts throughout Texas and the Southwest as well. In 1951, Albert Peña had just graduated from law school and was handed a school desegregation complaint in Hondo by Dr. Hector García and the American G.I. Forum. At that time, there had already been a successful case argued by Gus Garcia that segregation of Latinos was unconstitutional, but “you could hold them in the first grade until they learned how to speak English. And what happened was that some of these children were being held in the first grade for six years, and so they were segregated” (Peña, 1996). Hondo had a dual school system. If you were Latino, you attended the West Ward School that included grades 1-7. The other school was called the Main Plant. Peña went to Hondo to investigate and talked with Max Orta who lodged the complaint, and the school superintendent who acknowledged that there were two separate schools. Peña requested a hearing before the school board. “I took my client, Max Orta and I sat him down. He was the only Mexicano there and they had brought in big law firm in from Houston to represent the school board. They had about four or five lawyers there and I was there. I had already told them what I had found. They had two schools. Clearly unconstitutional. And of course, their excuse was that they were teaching them how to speak English. I said, ‘the person who made the complaint speaks fluent English, but I have one, only one witness,’ and they thought I was going to call Max Orta. I called the superintendent. The superintendent came and I said, ‘You remember when I visited in your office and I gave you the statistics about what was

happening in Hondo and you told me that that was true? You had two schools. One for white and one for Mexicans.' He said, 'Yeah, that is correct.' 'And you told me you couldn't do anything about it?' 'That is correct.' And I said, 'Well, that is all. You may sit down' (Peña, 1996)."

The argument made was simple, but the board balked at making changes. They continued to claim that what they were doing was constitutional and used the Garcia case as support. While the board claimed that students were learning English, there was no assessment of language competency. Peña appealed to the State Board of Education, but they were slow to respond as well. So, a different tact was employed. He called a meeting of all the Latino families in Hondo and said, "This is my first case and I am not the best lawyer in the country, but we are going to integrate these schools. We are going to enroll our kids in the Main Plant and we are going to stay there if it takes all day or it takes a week or it takes a month. But we are going to stay there until they enroll our children in the school." The plan was for parents to simply and persistently attempt to enroll their children in the Main Plant school. Parents would be told they had to go to West Ward, but instead they would just get back in line and try again. "I advised them not to be violent, just sing and have a good time and just stay there. This was in the morning, about eight o'clock and about one o'clock, they received a telegram from Austin, from the State Board saying, integrate. So, we had won our case and what had happened was that some newspaper picked it up and the State School Board called a hurried meeting and decided that, they were told by their lawyers the best thing to do is integrate, because they are going stay there, because this Albert Pena, he is a radical, and



I don't know what else they called me. But he is going to stay there until you integrate them, so that is what they did was that they integrated both schools" (Peña, 1996).

Following integration in Hondo, Peña was tasked with doing the same thing in Lytle. Lytle also had a dual school system in place. "They had a Main Plant and across the street, they had a one room school where they had forty Mexicanos going to school there, so I visited the school over there and there was a teacher...She was an Anglo who could not speak Spanish and the kids could not speak English. They were not taught English." In the school, there was one 14 year old student who served as a translator. Peña again talked to the superintendent and confronted the board. "Went before the school board...but they said, 'well, we will let you know.' And as I walked out, I was surrounded by people there and I said, I thought maybe I was going to be lynched or something. They were all white teachers and they were congratulating me for doing something about that very terrible situation they had there." This time, the district decided to integrate without involvement from the State. Following these two instances, Peña got many more calls from schools asking for help, though he did not have to go to the level of formal proceedings again (Peña, 1996).

Separate schools for Latino and white students were even more common in South Texas. Prior to World War II, schools and hospitals were fully segregated, and within Hidalgo County, for example, the McAllen Real Estate Board ensured that residential areas remained segregated. The Pharr-San Juan-Alamo school district is located in Hidalgo County, east of McAllen. It formed when three communities established an independent school district in 1919 (TSHA, 2007, Pharr). The "Mexican" grammar

school was located in Pharr, and Latino students were not given the opportunity to attend high school until 1925. Even then, Latino students had to petition for high school access (Atwood, 2008). A Hidalgo County report on migrant students from 1943 “reported the widespread ‘attitude that school attendance should not be allowed to interfere with the supply of cheap farm labor’” (Ferg-Cadima, 2004, p. 11). Schools were physically segregated in Crystal City as well when José Angel Gutiérrez grew up there. “There was a Chicano school, a Mexican school that was segregated. At the time, I didn’t know it was segregated; it was just a school. It was called De Zavala elementary and people who went into that school at age seven usually spent about four years before they got into the second grade.” After reaching second grade, Latino students would transfer either to Airport Elementary or the grammar school, which was almost exclusively white. Gutiérrez only spent a week in Zavala before his parents objected and had him transferred to the grammar school. He stated that he spent about two months in first grade before being promoted to the second grade. He graduated from high school when he was 17, while other Latino graduates were usually at least two years older. From what he remembers, his father saw the white school as having better teachers compared to the inferior Zavala school. The objections to placement were not the same as protesting the segregation itself. “I think that the values were that the epitome of what was good was where the whites were, so there’s no question regarding the institution and that’s where you should be” (Gutiérrez, 1971).



Children at Lamar School playground. Corpus Christi, Texas. (Lee, 1949).

Nowhere in Lee's collection does he identify schools as being segregated. In the image below, he clearly states that this is not a segregated school, even though this image, as well as pictures of school children from both San Angelo and Corpus Christi, shows only Latino students. Whether schools were actively segregating students or passively segregating students due to neighborhood geography, the result was still differential schooling for Latino students in many parts of Texas.



A classroom in the grade school in south San Angelo, Texas. While this is not a segregated school, the pupils were all Latins since there are no Anglos living in this section of town. (Lee, 1949).

***Edgewood history.*** Paula Allen, a history columnist at the *San Antonio Express News*, described the early history of schools in the Edgewood area. Edgewood ISD recently celebrated its centennial this year based on the year 1910 when the first white frame, one-room schoolhouse opened. The school was located in what is now the intersection of General McMullen Drive and Menefee Boulevard. The school was known as the Frey School, after Carl Frey, a Swiss immigrant and dairy farmer, who donated land to Bexar County for a school. Allen wrote that there were fewer than 30 students in first through eighth grade, and most students were the children of German and Belgian immigrant families living in the area. In 1915, several of these rural schoolhouses merged. Edgewood High School had its first graduating class in 1937. John F. Kennedy High School opened in 1963, and Memorial High opened in 1967. The Edgewood area was originally part of the Bexar County school system. The consolidation of Edgewood

area schools in 1915, likely corresponds to the state passage of a compulsory attendance law. Later, additional Texas laws allowed for the creation of independent school districts that reported directly to a state education agency but operated separately from city and county government. Alamo Heights became an independent school district in 1923 (AHISD website, 2011), and Northside first began as a consolidated school district in 1949 (Northside ISD website, 2011). That same year, the Gilmer-Aiken laws created the foundation school program, created an elected State Board of Education, and established the Texas Education Agency as the administrative entity overseeing education in Texas. The first Edgewood High School opened in 1934 on Cupples Road and Ceralvo, and the newer higher school at 34<sup>th</sup> Street and Lance opened in 1954.

The Allen article, however, shares scant details on how the district evolved between the first schoolhouse and its current circumstances. Cárdenas, though, had a historic understanding of the area and was able to fill in some of the holes. He described a process in San Antonio and other parts of the state where country school districts sought to break away from county governance. In this system, schools had to compete with other county services for tax revenues. By incorporating as an independent school district, schools could then function as independent political entities and operate under their own taxing authority. Alamo Heights and San Antonio became the first independent school districts in the area. As the city of San Antonio grew, the SAISD did not necessarily expand in the same way. Annexation of territory into the district became calculated, and attention was placed on incorporating predominantly Anglo neighborhoods and areas of wealth. “Some of the lower wealth areas or minority areas

were not accepted for annexation” (Cárdenas, 1997a). The Edgewood community consisted of low-cost housing and a predominately Latino population, with virtually no business or industry. As such, it possessed little tax value and was not appealing to other Bexar County areas considering or planning district incorporation. “I think Edgewood remained because it was an area that nobody particularly wanted. It was almost all Hispanic and had very low wealth, housing, and very small housing with very little tax value” (Cárdenas, 1997a). Edgewood made a formal request to join the San Antonio Independent School district, but their request was denied. Despite the careful planning, San Antonio continued to change. Wealth moved out of the district, and more black and Latino families moved into the area. “This is ironic because they didn’t want Edgewood because it had too many Mexicans and yet, San Antonio School District now has more Mexicans than there are in Edgewood” (Cárdenas, 1997a). Cárdenas described a similar scenario for Harlandale. That district also established itself as a white district and to get away from the county system, but it ended up serving mostly non-white students. South San Antonio also became an independent school district before Edgewood and took the railroad line and the taxable property that came with it as part of its territory. As other districts incorporated, Edgewood was left as part of the county system until about 1950 when the area had no choice but to become its own independent school district.

“The creation of the present Edgewood Independent School District by exclusion, particularly the reluctance of other districts to incorporate a large minority population, presented early and instant prospects for school finance court case.

[Del Rio and San Felipe merger –*U.S. v. Texas*] The legal point of illegal

incorporation was never pursued, both because of the fear that the legal remedy would be the abolishment the Edgewood district, rather than the abolishment the inequitable Texas system of school finance” (Cárdenas, 1997b).

According to Cárdenas, since becoming an independent school district, Edgewood has always been a mostly Latino, mostly poor district. While lawyers for the state will argue in the *Rodriguez* case that the state did not set out to establish inequality based on race or class wealth in the formation of school districts, it did happen by default.

**City context.** The racial history of San Antonio is unique compared to most other urban areas in the United States. Though San Antonio has always had a large Latino population, up until the mid-1960s, few other parts of the nation knew or recognized Latinos as a group. Politically and economically, San Antonio has been a white dominant city since the “Texas Revolution”. For example, in 1981 Henry Cisneros became the first Latino mayor of San Antonio since Juan Seguín was elected in 1841. Despite this subordinate positioning, the area also has a strong history of middle and upper class Latino residents, in addition to issues associated with working class poverty. In the mid-1960s, about 20% of the Mexican American population of San Antonio would be considered middle class. Before World War II, most middle class residents had come either from elite Mexican families who left Mexico during the revolution or were small business owners that primarily served the Mexican American community. After the war and the introduction of the G.I. Bill, many veterans were able to obtain greater economic opportunities and stability through education, training, and federal jobs. This added to Mexican American middle class diversity. While old middle class families mostly lived

in barrio communities on the west side or in Riverside near downtown, members of the new middle class sought homes in new subdivisions like Loma Park or broke barriers into race restricted areas such as Jefferson, Harlandale, Olmos Park, and even Alamo Heights (Montejano, 2010). Additionally, San Antonio was still part of the South in terms of imposing restrictive Jim Crow laws and poll taxes.



Discrimination. Dimmitt, Texas. This is a small, west Texas wheat town with practically no permanent Spanish-American population. The sign is meant for the migratory agricultural worker. (Lee, 1949).

*Downtown and city theatres.* Rosie Castro remembered that she and a lot of kids her age “were into the Davy Crockett thing...I can remember in high school...going to the Alamo and reading some of the stuff that it said there and just being in total shock and never wanting to go back again. The whole idea...the Alamo was all about the



conquering of people, and (the way) it talked about Mexicans was terrible.” She also recalled patrols downtown in the 1950s and early 1960s and the segregation in the Majestic theatre that restricted blacks to sitting in the balcony. “I remember some of the signs...downtown was extremely segregated. I mean, it was real clear. There was a place where Mexicanos lives and a place where Anglos lived which was so much better looking. Everything from the houses to the actual streets and everything about it was vastly different” (Castro, 1996). In 1961, college students began organizing “stand-ins” at the Majestic Theatre. The theatre had a separate entrance for black patrons. A white or Latino student paired with a black student and would attempt to gain access at the main entrance. When the black student was refused admittance, the pair would move to the end of the line. With 25 pairs of students engaged in this protest technique, lines became extremely long and business was disrupted. These stand-ins continued periodically over the next few months, and brought attention to issues of segregation in San Antonio. Later that year, a committee was formed to discuss the issue, and trial desegregation at the Majestic was implemented. This temporary solution became permanent and other theatres in San Antonio followed suit (Goldberg, 1983).



In front of the Alameda Theater. San Antonio, Texas. (Lee, 1949).



Alameda Theatre today. When it opened in 1949, the Alameda Theatre was the largest Spanish language entertainment venue in the nation. They are currently raising funds for restoration, and the theater will continue to be affiliated with The Museo Alameda, a Smithsonian affiliate and museum dedicated to Latino history, arts, and culture (Atwood, February 26, 2011).

**Pools.** City pools were also segregated in many communities across Texas and the Southwest. Joe Bernal was part of an Air Force CRP specialized training program. At seventeen he was enrolled at Texas Tech University as an engineering student. He and other Latino friends and fellow students went to the university pool one day that first summer.

“Anyway, I don't ever remember being stopped at the swimming pool. But we are swimming, right? And there's about half a dozen guys outside the fence. And I didn't realize that, that, that the pool was not for Mexicans, right. I didn't realize it. But I should have because here in San Antonio, they didn't let us go into one of the South Side pools and then we used to, every time we used to go to the pool over in Jefferson by Woodlawn, we used to have fights with Anglos. These guys were on the fence like that and then they (said), “Hey, *hablan espanol* ?” (speak Spanish?)” “Si.” (“Yes.”) “*Corno los dejaron entrar?*” (“How did they let you in?”) “*Por la puerta* .” (Through the gate.) “*Estan en la Universidad? Yo creo es por eso. A nosotros no nos dejan entrar nomas los jueves*” (Are you in the university, maybe that is why. We are not allowed to come in only on Thursdays.)” “*Los jueves, porque?*” (Thursdays, why?) “*Porque tiran el agua el jueves*.” (“Because they drain the water on Thursdays.”) And that stayed with me for a long time” (Bernal, 2003).



Swimming pool at Armijo Park in southern section of El Paso sponsored by Marcos Armijo Post #2753, Veterans of Foreign Wars. (Lee, 1949).

*The Mexican American middle class.* In contrast to problems regarding housing and geographic segregation, San Antonio was also home to Spanish language media outlets, Latino owned businesses, and middle class and professional residents. Interestingly, though Lee was specifically sought to undertake the photo-documentation for the Study of Spanish Speaking People of Texas, his photographs were never used with the final report or officially published. It has been suggested that this exclusion might have occurred because Lee focused not just on the hardships faced by Spanish speaking people, but he also documented middle class success (Center for American History, 2006).



Control room operator at a Spanish-language radio station. (Lee, 1949).



Homes of Spanish-speaking people. The people who live here are carpenters, electricians and of similar occupations and incomes. (Lee, 1949).





The names of the doctors on the front door of a clinic. (Lee, 1949).



Casa Blanca restaurant customers. San Antonio, Texas. (Lee, 1949).

## **Multiple Methods of Activism in San Antonio**

Finally, activism played a major role in prompting the *Rodriguez* case. Latino activism in San Antonio has a long and complex history. This case was influenced by this history of labor organizing, traditional civil rights activism, as well as by the new Chicano and youth movements. Additionally, people and ideas often do not stay neatly within these activist boundaries. Groups and individuals operated at multiple levels (national, state and local) and employed multiple methods for seeking change. Many individual activists were members of several groups, and likely each group's tactics or strategies varied. Because of this, group identification is important, but it is also essential to understand an individual's association with a group is not absolute. In a wider take, it is the history and complexity that also prompted the case. Taking action or filing a suit would have been considered a normal approach, rather than a unique event. In this section, I describe the major activist influences of labor, traditional, and Chicano movements. Then I describe the ways that each of these activist legacies influenced local and issue specific groups in San Antonio. Finally, I briefly include the roles that white residents played from ally to oppressor.

**Labor organizing.** Vargas writes, "the labor struggles of Mexicans were inseparable from the issue of civil rights, because whether the worker upheavals succeeded or failed, the labor movement set in motion important changes. Just as racial discrimination led Mexicans to pursue the righteous path to unionism, it pushed them into the struggle for social justice" (2005, p. 5). Vargas argues that labor movements beginning in the 1930s served as a catalyst for continued civil rights action by Mexicans

and Mexican Americans following World War II and directly contributed to the Chicano Movement as well. In the late 1930s, individuals such as San Antonio Mayor C. K. Quinn had created a political machine system of poll taxes, intimidation, and the purchasing of Mexican American votes to maintain power over the city and over Mexican American residents. “Fearing Mexican empowerment with the arrival of the labor movement, these city bosses employed force, violence, and Red-baiting to break any strike threat” (Vargas, 2005, p. 129). Emma Tenayuca is likely the best known labor activist in San Antonio. She adamantly supported the rights of workers and was instrumental in organizing pecan workers to strike. Texas has long been an anti-union state, yet the Pecan Shellers Strike in 1938 is one critical example of labor organizing in San Antonio<sup>6</sup>. The three month strike began in January when between 6,000 and 8,000 mostly Latina workers went on strike. At the time, shelling pecans was among the lowest paid industry jobs in the nation. Workers were protesting low pay, poor working conditions, and health concerns. Multiple strikes occurred over the next few years, and while they were marginally successful in increasing wages and improving conditions in the immediate future, workers were soon replaced as factories switched to mechanized shelling as a cheaper alternative.

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<sup>6</sup> This particular labor movement is covered more in depth in David Filewood, *Tejano Revolt: The Significance of the 1938 Pecan Shellers Strike* (M.A. thesis, University of Texas at Arlington, 1994). Selden Menefee and Orin C. Cassmore, *The Pecan Shellers of San Antonio* (Washington: GPO, 1940).





People standing by the truck which is taking them from Laredo, Texas, to Wyoming where they will work in the sugar beet fields. There were twenty-seven people traveling in the truck. San Angelo, Texas (Lee, 1949).

One of the striking workers was Alberta Zepeda Snid. Snid was born on the west side of San Antonio in 1919. Her father was an agricultural laborer, and when the Great Depression hit, Alberta and her sisters could no longer afford to attend school since they were needed to work. The entire family migrated, picking sugar beets in Michigan and cotton in the southern states. In 1927 her mother began shelling pecans instead at a factory on Colima Street. Her father continued farmwork until crop failures and decreasing wages forced him to shell pecans, as well. “The conditions were poor, naturally, very poor because when you get fifty, sixty persons all in one place sitting side by side. Really sitting in on wooden benches, mind you not chairs, wooden benches, makeshift benches and being there for eight hours, maybe nine, ten hours a day, you know. It’s a very bad situation. Of course, we had no sanitary conditions at all, no

sanitary conditions period.” (Snid, 1978). Workers had limited lighting and ventilation and no restroom facilities. Salaries were based on the pounds of pecans a worker could shell. Snid stated that top salaries were about 85 cents a pound, but payments dropped, “to the point where some people were not getting paid with money any more, but with beans and potatoes and staples, you know, rice, shortening, salt, baking powder, coffee and I don’t mean that there was a whole bunch of it, you know, just a pound of this and a pound of that.” Snid also recounted that the strike as a success. “We learned that through organization we could do something. Maybe we didn’t win that much as far as money was concerned, okay, but we learned that being united is power” (Snid, 1978).

The labor movement was not universally supported in San Antonio. Groups like LULAC, the Mexican American Chamber of Commerce, and the Catholic Church sympathized with workers’ desires for better conditions and wages, but refused to support their efforts because of the sensationalized links between unions and Communism. Middle class Mexican American residents and business owners were quite aware of their tentative position in the social order in San Antonio. In part, many feared angering the dominate white culture, and therefore failed to support working class Mexican Americans in labor efforts. However, Snid, along with other workers and other Latinas in San Antonio, learned the importance of organizing and the potential for change that could occur from group action and continued to apply these practices to organizing and activist efforts. Snid later had a job with the Mexican American Unity Council (MAUC). She was a founder of the Edgewood Concerned Parents Association and talked with other parents of Edgewood children to increase awareness and to encourage their participation.



Separating the whole meats from the broken ones. Union plant, San Antonio, Texas (Lee, 1939)<sup>7</sup>.

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<sup>7</sup> Lee's photographs from 1939 were part of a Farm Security Administration project to document the "American way of life" and focus on cultural and economic activities.



Mexican women pecan shellers at work. Union plant. San Antonio, Texas (Lee, 1939).

**Traditional civil rights.** The League of United Latin American Citizens (LULAC) formed in 1929 to promote cultural and educational development, protect cultural heritage, and to “incorporate the population in the mainstream of Anglo American institutional life” (San Miguel, 1987, p. xviii). From its roots it included an orientation towards educational improvement, but assimilation was also at the core values of the organization. Access to education for Mexican American children was a key area of action for LULAC. Essentially, the group believed that improvements for the conditions of Mexican Americans in Texas was possible by promoting integration into Anglo society while maintaining Mexican culture. The early founders of LULAC were all born in the United States or were naturalized citizens, and they belonged to the middle class. Membership criteria were strictly enforced which markedly differentiated LULAC from other more inclusive groups. Additionally, with respect to education, LULAC

found Mexican Americans culpable for some of their treatment and blamed a lack of understanding English and attitudes towards education for many problems that students faced in schools (San Miguel, 1987). However, LULAC did argue against segregation of Mexican American students on the basis of race or nationality, the assumption of non-English proficiency, and the unequal facilities or expenditures in schools. Prior to World War II, LULAC acted at a mostly local level within the state of Texas. The group recognized the need to use the court system for leverage to achieve more systemic resolution and to use the external authority to enact change. LULAC gained national recognition for their win in the 1946 California court case, *Mendez v. Westminster*. This case effectively ended segregation in California's school system and became a precedent for *Brown* eight years later (San Miguel, 1987; LULAC, 2007).



Members of the American G.I. Forum at a soldier's reburial services. Corpus Christi, Texas (Lee, 1949).

Also following World War II, many veterans returned from combat and hoped to reap the promised benefits of the G. I. Bill of Rights. The “guaranteed” educational, housing, and medical benefits were denied to many Mexican American veterans,

including Hector P. García. García was an army Major and medical doctor who grew up in Mercedes, Texas, in eastern Hidalgo County. He founded the American G. I. Forum to help defend Mexican American veterans from discrimination, and the group remains dedicated to its motto, "Education is Our Freedom and Freedom should be Everybody's Business" (AGIF website, 2007).

As a college student, José Cárdenas worked with the American G. I. Forum, even though he was not a veteran. Xico García, Hector's brother, lived at the same rooming house as Cárdenas. Xico formed a baseball team that would travel to various towns throughout South Texas to play a game, and then the team would conduct an organizing meeting. "We would start talking and do the dog and pony show for Hector García about the need for organization, the discriminatory treatment they were receiving. In some of those towns they even had the Mexican school where all of the children attended that were Mexican Americans were completely segregated and were attending segregated schools. And most of them that I saw were vastly inferior to the schools that white Anglos attended." In spite of the baseball guise, local authorities would sometimes catch on to their real intentions, break up their meetings, and run them out of town. (Cárdenas , 1998).

Both LULAC and the G. I. Forum used the courts to promote better access to educational opportunities. Both groups were involved in the *Delgado v. Bastrop* court win in 1948. In this case, the Texas courts ruled that separate buildings or facilities for Mexican American students were not permissible, except for primary level classes "for language-deficient or non-English-speaking students as identified by scientific and

standardized tests applied to all” (TSHA, 2007, *Delgado v. Bastrop ISD*). In practice, this case was used as support for the continued segregation of Latino students.

“[I]n a lot of school districts, when a Mexican child first went to school, he was put in what they called a pre-primer. Spent a whole year there. Second year, he was put in the primer. Third year he would go into the first grade. By this time he was two years older than the average first grader. . . . [T]heir Anglo counterparts were already two, three grades ahead of them...so a lot of them dropped out and didn’t go to high school” (from interview with Ed Idar, 2000, in Ferg-Cadima, 2004, p. 9)

While the African American Civil Rights movement also relied on the courts and legal system as a mechanism for change, Latino activist often found it difficult to gain equal protection under the law. Latinos were seen and treated as “the other white” population. Legally, such as on the United States census, Latino citizens were racially labeled as white (with the exception of the 1930 census). Yet segregation within public facilities such as restaurants, movie theatres, hotels, and swimming pools was not uncommon in Texas and across the Southwest. “Stores displayed signs reading ‘Mexicans and Dogs Not Allowed’...(Texas) courthouses segregated their restroom facilities, with one door unmarked and the other with dual signs reading ‘Colored Men’ and ‘*Hombres Aqui*’ (‘Men Here)’” (Ferg-Cadima, 2004, p. 7). It was not until *Hernandez v. Texas* (1954) that the Supreme Court ruled that when laws work to produce differential treatment of classes of citizens, this is a violation of the equal protection clause of the 14<sup>th</sup> Amendment. In this decision the court recognized a legal class

distinction between white and Latino citizens and enforced equal protection beyond previous “black and white” interpretations of the law.

Though this was a major victory for Latino people, discriminatory practices based on limited English proficiencies and migrant status persisted. These policies created a legalized form of segregation that greatly inhibited the flow of students into secondary education. Additionally, rather than assigning Latino children to separate classes based on English proficiency results from “scientific or standardized tests”, students were placed based on a Spanish sounding surname (Alemán, 2004). It was not until the court ruling in *Hernandez v. Driscoll CISD* (1960) that segregation based on linguistic difference was banned. This case found that the placement of Latino students in separate classrooms was “arbitrary and unreasonable” (TSHA, 2007, *Hernandez v. Driscoll*), though little actually changed for most Latino students in Texas after this case.

While LULAC and the American G. I. Forum often used racist laws to insist that as racially white people, Mexican Americans were entitled to the same treatment as Anglos, Texas State officials also used the “other white” argument or an “absence-of-law argument” to deny the existence of discrimination or segregation against Latino citizens. This changed with the 1971 Supreme Court case of *Cisneros v. Corpus Christi ISD*. This decision recognized Latinos as an “identifiable minority group” (instead of just a separate class) and essentially extended the *Brown* decision to Latino students<sup>8</sup>.

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<sup>8</sup> For a more thorough account of this legal history see *Let All of Them Take Heed: Mexican Americans and the Campaign for Educational Equality in Texas, 1910-1981* by Guadalupe San Miguel, *The Courage of Their Convictions: Sixteen Americans Who Fought Their Way to the Supreme Court* by Peter Irons, and *Courts as Catalysts: State Supreme Courts and Public School Finance Equity* by Michael Bosworth.



Other groups, such as the Political Association of Spanish-Speaking Organizations (PASO), formed in the mid-1960s to influence political action and work to elect Latinos to office. At this time, there was also growing disillusionment from LULAC and the G. I. Forum cause by a lack of attention to Mexican American issues by the federal government. One key example of this was in 1966 when President Johnson formed a multiracial council to plan a civil rights conference, yet no Mexican Americans were included. Some Mexican American leaders, turning to more aggressive action, staged a walkout of a regional Equal Employment Opportunity Commission (EEOC) meeting in New Mexico (San Miguel, 1987; Montejano, 2010; Cárdenas papers). This change was important to the broad picture of Latino activism. While activism prior to this had largely been control by “old guard” institutions like LULAC and the American G. I. Forum, new actors and organizations were becoming involved in this struggle.

Many authors critique these traditional organizations as maintaining the white dominant status quo by promoting assimilation and by valuing their own middle class status over the need for rights and remedies among working class Latinos (Vargas, 2005; Montejano, 2010, Oropeza, 2005). Vargas describes LULAC as a “weak and ineffective institution and moreover was disengaged from Mexican workers” and that by “basing Mexican American identity on class allegiances, LULAC essentially launched itself on a course separate from the concerns and needs of the Spanish-speaking working class” (2005, p. 63). Oropeza maintains that activist groups such as LULAC and the American G. I. Forum operated under “a particularly male-dominated and militaristic form of American citizenship” and advocated for assimilation and being “loyal citizens” over

direct action (2005, p. 38). Yet, in spite of such criticism, these two traditional rights organizations were important forces dedicated to confronting issues of education. Labor movements focused on economics and workers rights, and the Chicano movement centered more around political action and aggressive tactics, as will be discussed in further detail. All areas of activism were important, but it was primarily these traditional groups that addressed school based issues of inequality.

**Chicano activism on the rise.** Following the EEOC walkout, newer non-traditional groups began forming. Further, farmworkers strikes in California and Texas in 1965 and 1966 resonated with Mexican American college students who became organizers and activists.

"In a short time, these politicized students left the farm worker cause and created new organizations focused on other issues facing Mexican American communities. They recruited others and broadened the message of 'la causa' beyond its farmworker meaning to refer to a general race-ethnic struggle for civil rights" (Montejano, 2010, p. 2).

These organizations were generally youth or student led groups that were criticized or praised (depending on perspective) as being aggressive and militant. These organizations marked a sharp change in direction from more traditional groups. Chicano activists rejected the slow pace of change and more conventional tactics, such as reliance on the courts or press conferences and letter writing. Chicano activism in San Antonio may have also helped quell gang violence as barrio youth organized and unified under new Chicano leadership (Montejano, 2010). In San Antonio, Chicano groups organized

or inspired student walkouts, spoke out against “gringo” authority, and challenged the existing system by running for office.

MAYO was a key Chicano group that was formed by college students in San Antonio. José Angel Gutiérrez was one of the founding members of MAYO. He grew up in Crystal City, Texas, went to Texas A & I as an undergraduate but then attended St. Mary’s in San Antonio to work on his Master’s degree. He was only able to afford the private school because he was awarded a graduate student assistantship to cover the cost of books and tuition. While there, he was critical of many of his fellow students. “It was sickening to me to see all these middle class Chicanos who could afford going to St. Mary's, who were paying out of their nose, well on their way to being white” (Gutiérrez, 1971). While there, he met Willie Velásquez, who seemed to be the one student on campus who shared his views. Later, he met Mario Compean, Ignacio Pérez, and Juan Patlán. Both Gutiérrez and Patlán had rural, middle class backgrounds and were from the Winter Garden region, while Velásquez, Compean, and Pérez had grown up on the west side of San Antonio in working class families (Montejano, 2010). While the five men got together to discuss and plan over a period of a few months, Gutiérrez remembered calling a meeting and outlining the bulk of the plan for creating the organization in one evening.

“We sat there, I guess, for about eight hours and outlined the whole program [Laughed] as to what was wrong with the Chicano organizations and how we were going to do things differently and what kind of things we were going to get into and that this organization should be a group of organizers...It was just that we all came out of the same time and the same frustrations and everything that we

had been working in individually, it was just very natural for us to get together” (Gutiérrez, 1971).

In 1967, Mexican American leaders from various organizations across the country convened their own conference as a response to being left out of the White House sponsored Interagency Conference on Mexican American Affairs. MAYO was present at this alternative conference and chose this venue to announce their presence and message to the Latino rights establishment. Leo Cardenas, a reporter for the *San Antonio News* described the contrast between the “business suit-types” from groups like LULAC, the American G. I. Forum, and PASO in contrast to the newer, younger, and more aggressive activists from MAYO. MAYO leaders told traditional leaders, “We have studied and seen your ways of improving the lot of the Chicano. We are not impressed. If nothing happens from this [conference], you’ll have to step aside or we’ll walk over you” (Cardenas, 1967 in Cárdenas papers). Staying true to this message, MAYO adopted tactics such as “ridicule” and “confrontation politics” from Saul Alinsky (Alinsky, 1971). In January of 1968, MAYO organized their first Raza Unida Conference and later that year the group organized student walkouts. Between 1968 and 1970, MAYO was involved with 39 walkouts in Texas high schools, including San Antonio area schools (Montejano, 2010). On one hand, the walkouts gave MAYO notoriety in the papers and increased support from barrio youth, but the group also recognized the need to obtain funding. Since many funding agencies would be reluctant to fund a radical group, they formed the Mexican American Unity Council (MAUC) as a non-profit dedicated to economic development. MAUC became a lasting organization in San Antonio, but its

origin was to function as a mechanism for obtaining grant money from groups like the Ford Foundation and funnel it to more radical Chicano efforts, like MAYO, La Universidad de los Barrios, the Committee for Barrio Betterment, and later La Raza Unida Party and the Brown Berets. MAUC was part of the Southwest Council of La Raza, which was also funded through the Ford Foundation. These were “two MAYO projects that we helped along by incorporating and getting people on the board and so on. Nobody in Texas heretofore had worked along those lines of incorporating boards and getting foundation money” (Gutiérrez, 1971). This was a savvy method of financing Chicano groups, but did not go without notice from Henry B. Gonzalez. Gonzalez was most successful in damaging Chicano activism by attacking their funding. He put immense pressure on the Ford Foundation, forcing MALDEF to relocate from San Antonio to San Francisco and other groups to alter or suspend some of their activities (Gutiérrez, 1971; Montejano, 2010).

MAYO grew in size, popularity, and funds, attracting more people to their cause. Before becoming active in Chicano politics, Rosie Castro was an active member of the Young Democrats. As a student at Our Lady of the Lake, she and other students went door to door register people in the barrio neighborhoods to register to vote. “I can remember the women coming out and saying, ‘Well, you know what? That would be nice. I would like to register to vote, but why don't you leave them because I have to ask my husband.’ Many, many times... And it just stayed with me, forever. The idea of having to ask your husband, you know, to register to vote. I guess it is normal. We were college kids. By that time college kids were already saying well, there is definitely going

to be a different way of doing things” (Castro, 1996). Indeed, Castro was soon an active member of the Community for Barrio Betterment (CBB), and part of the ticket in San Antonio City Council elections in 1971, along with Mario Compean, Willie Benavides and Gloria Cabrera. Castro was 23 at the time. “I think what we originally started trying to do, was (that) Mexicanos simply weren't running. The GGL (Good Government League) always had two, three, usually three, that they hand picked for council. And that was it. I mean, they were picking your Mexicans for you so why should you (or) anybody else want to run when here are the ones you are going to have. It was designated. And so, what they had started to do and what I think that we continue to do.... We were encouraging people. We are saying, hey, you can run. Nothing says that you can't run” (Castro, 1996).

The early Brown Berets organizations existed in Los Angeles along with a similar Black Berets group in Albuquerque. La Universidad de los Barrios (LUB) in San Antonio was interested in both of these groups, but a San Antonio chapter of the Brown Berets did not form until after a split in MAYO in December of 1969. Some of the leaders of MAYO had made the decision to move the organization in a political direction. This shift resulted in those supporting political party formation creating La Raza Unida party, and left LUB to transition into a chapter of the Brown Berets in the summer of 1970. In addition to a change in tactics and goals, this split also marked the end of close collaboration between neighborhood youth and college students (Montejano, 2010). As La Raza Unida party expanded from local to statewide election bids, the Brown Berets remained focused on the barrio neighborhoods of San Antonio. The group was

essentially a paramilitary organization that was dedicated to the protection of the west and south sides of San Antonio, including protection from the police, as well as from gang violence. Like LUB, the group continued to promote unity beyond gang or clica affiliation and the ideals of carnalismo, and for some they garnered a reputation as peace keepers or security agents. From holding a drive where 200 gang members turned in their weapons, to working to help barrio families find jobs or collect food stamp benefits, or contend with issues of drug addiction, Beret members sought ways to help their community (Trejo, 1971 in Montejano, 2000). In the summer 1971, the group began a campaign against police harassment and brutality. Using this action as a catalyst, MALDEF filed six cases of police misconduct with the San Antonio City Council. The city leaders, however, found no wrongdoing. This lack of response fueled demonstrations and the formation of the Committee on Police Practices (COPP). The Brown Berets had organized neighborhood patrols along with protests and marches, with the largest demonstration taking place in November. Beret members from Houston, Dallas, Austin, and Los Angeles were all in attendance, as well as members of 35 different organizations. About 500 people marched through the west side to a rally in front of the Alamo. This incident was captured positively by the media. Reporters noted the peaceful nature of the march that accompanied signs of “Chicano Power” (in Montejano, 2010, p. 259). Additionally, “for some barrio residents, the Berets represented a neighborhood police force” (Montejano, 2010, p. 133). Still, many Anglos and Latinos alike were apprehensive about the Brown Berets. “When dressed in full khaki uniform and boots, and marching in a military formation, the Berets could be an

unnerving presence” (Montejano, 2010, p. 181). In one instance, a group of Berets went down to assist striking farmworkers in the Valley combat police brutality. When the group got there, however, the conservative farmworkers were shocked by their appearance and believed them to be Communists. As a result, those on strike refused the help of the Brown Berets (Martinez, 1975 in Montejano, 2010). Other groups in the movement, such as MAUC and the Raza Unida Party, distanced themselves from the Berets, as well. For some, the group still seemed too much like a gang, despite their positive efforts and promotion of ideas of unity. Effectively, the west side Brown Berets disbanded in 1973. The group struggled with funding, organizational structure, and the reality of being left out of the direction that the Chicano movement in San Antonio was taking towards political action. Also, their collapse signified the waning power of the movement as a whole. Only four years later, in 1978, Raza Unida Party ran on a statewide ticket for the last time.

**Local interest groups and activism.** During the mid-60s early 70s, while this case was going on, there were many groups and individuals who did not fit exclusively within these categories as described above. Pointing out differences in tactics and ideology is meant to illustrate the complexities in that time period for activists, which in some ways is representative of the turbulence of the times in the United States as a whole. Headlines from *The Washington Post* from this period tell of the Vietnam War and Black September attacks abroad, and of Watergate, Wounded Knee, and protests in the United States. There was sometimes overlap in individual membership between groups, or individuals changed group allegiance based on personal changes in beliefs or



changes in the group itself. Alberta Snid, for example, was a labor activist early in life and later worked with MAUC, a Chicano group of the time (Raymond, 2008). Rosie Castro had been an active leader in the Young Democrats in San Antonio before transitioning to active membership within the Raza Unida Party (Castro, 1996). Other individuals, such as Henry B. Gonzalez, can be understood as a radical early on in his political career, yet extremely traditional at other times (Montejano, 2010). Further, it is not clear to me that the various groups or organizations were necessarily in conflict. While there is ample information to support the idea that groups did not agree with one another, there is less evidence that groups actively and outwardly fought against each other<sup>9</sup>. Ultimately, they were all working to extend equal rights and opportunities to Mexican American people (Cárdenas letter) in various ways and with various end goals in mind.

This complexity and overlap can be seen among those who filed the *Rodriguez* case. In addition to these generalized understandings of activism for and by Mexican Americans, San Antonio was home to many groups that focused specifically on local issues such as the Edgewood Concerned Parents Association (ECPA). The five sets of parents who eventually became complainants in the *San Antonio v. Rodriguez* case were members of this group. Demetrio Rodriguez was a member and activist with both LULAC and the American G.I. Forum, typically considered to be more traditionally

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<sup>9</sup> Henry B. Gonzales is one prominent counter example. He actively spoke out against the Chicano movement as a whole, and specifically attacked individuals such as Albert Peña, Joe Bernal, José Ángel Gutiérrez, and Willie Velásquez publicly and in the papers. Gonzales also targeted the Ford Foundation as it was the primary funder for MALDEF and MAYO and the various sub-organizations that it supported. For more detailed accounts see Montejano, 2005, *Quixote's Soldiers*; Sepúlveda, 2003, *The Life and Times of Willie Velásquez*.

aligned groups. Alberta Snid, on the other hand, was more of a “rebel” (Rodriguez, 2011) who was involved with labor organizing (Raymond, 2008; Snid, 1978). To the best of my knowledge, none of the students named in the case participated in the high school walkouts in Edgewood. However, the walkouts at Edgewood, Memorial, and Lanier High School in San Antonio in 1968 do illustrate the presence of Chicano activism in association with school issues presented in this case. Yet in understanding how these activist influences prompted the case, it must be understood that *parents* filed the case. Whatever the background or additional activist affiliations of the parents involved, this case was initiated by members of a parent organization created for the sole purpose of addressing problems in Edgewood schools. The ECPA included members who were involved in labor and traditional civil rights organizations, but the group was issue driven rather than motivated by ideology. In other words, regardless of the backgrounds or outside affiliations of the parents, they joined together to focus on issues of education.

Though there were five sets of parents named as complainants, the case is known according the name of Demetrio Rodriguez. Raymond focuses on the naming of the case as a way of understanding the dynamics of the group and the overarching message that they were trying to send with this case. First, she emphasizes that Snid had been a primary agent in first organizing the ECPA group. Rodriguez remembers Snid as being highly involved in the group as well, “Alberta Snid I remember because she did most of the talking” (2011). She worked to get parents to attend meetings, recruit new members and continued to talk to parents about the issues and importance of the case once it had been filed. Yet, the case was not named for her. Raymond offers a critique of this. First,

she makes an argument that Rodriguez was selected at the first complainant because he had a more obvious Mexican American surname, and the case might draw more attention to issues for Latino students rather than a case named for Snid. Additionally, Raymond suggests that Snid was not first because female involvement as rights activists and organizers tended to be minimized. Finally, Raymond explores the possibility that Rodriguez was selected first because of his more assimilationist affiliations with LULAC and the American G.I. Forum as opposed to Snid and her more radical labor background (Raymond, 2008). Rodriguez remembers, “She was a rebel of the time. The pecan pickers, the pecan peelers...she was part of that union. They said she was a communist, but she never gave up” (2011). However, he also has a different account for why he was the lead plaintiff on the case. He simply signed up first. Arthur Gochman approached the ECPA and originally presented the possibility of filing a case and taking legal action regarding the issues that these parents were concerned with. It was Demetrio Rodriguez who signed on first, and then he and Gochman worked to get other people signed on and to garner support from other community members (Rodriguez, 2011). José Cárdenas also remember meeting Rodriguez who, “on one occasion mentioned that the case bore his name by coincidence. When the Concerned Parents Association met with their attorney, Arthur Gochman, he asked the members of the group to sign the suit filing papers. Rodriguez told me that he signed first because Gochman passed the document from left to right. If Gochman had passed the document in the opposite direction, Rodriguez would have been the last to sign” (Cárdenas, 1997b, p. 31).



At an organizing meeting of the Pan-American Progressive Association. San Antonio, Texas. (Lee, 1949).



Standing Felix Cerda, executive secretary of PAPA, seated Virgilio Elizondo, vice-president of PAPA at a district organizing meeting. (Lee, 1949).

**Anglo response in a time of activism.** Historically, San Antonio had been under the economic and political control of a small group of elite white residents. The Good Government League (GGL) had been the informal organization that effectively ran elections and selected who would run for elected office in San Antonio since the 1950s. Walter McAllister was a prominent business and civic leader and was mayor of San Antonio from 1961-1971. He was a driving force behind the GGL and its formation. The stated purpose of the GGL was to “promote business interests as well as efficiency in government” (Montejano, 2010, p. 14) but the reality was an elite business group that controlled elections in San Antonio. They, among others, actively worked to maintain white dominance in San Antonio. In part, this control was maintained by including GGL selected Mexican American or Black representatives to the city council. This was more a symbol of paternalistic control rather than benevolence or inclusion. These members were selected in part because they would vote in line with GGL policy desires.

Yet, in the midst of all this, there were also white allies in the various rights movements. Arthur Gochman was from San Antonio. His father owned a tire shop and later an army surplus store that eventually transitioned to sporting goods and became the company Academy Sports + Outdoors. In an op-ed piece in the *Houston Chronicle* in 2008, Gochman wrote about his first activism efforts at the age of 14. He decided to go to a San Antonio amusement park with a black friend on Juneteenth. This act broke segregation laws at the time because the park had been reserved for black patrons to celebrate the holiday. Gochman and his friend were allowed entrance, but officers

followed them throughout the day. They could not walk together (Gochman was told to walk behind his friend) or purchase food together. Once they purchased food separately, but then were not allowed to sit at the same table to eat, and riding in the same car for amusement park rides was also prohibited. “We left about 10 p.m. The officers were still talking about us when we left. They were Greek philosophers discussing whether what had been done on that evening could possibly affect the immutable laws of segregation” (Turner, 2010).

In college, Gochman opted to pursue a career in law instead of working in the family business. He established a law practice in San Antonio and gained expertise as a civil rights attorney and in antitrust cases. At one time, he practiced law with Maury Maverick. Gochman actively participated in both legal avenues and direct action with regards to civil rights in San Antonio. He and others worked to desegregate many business and public places in the city, including the restaurant in Joske’s Department Store. In 1970, Gochman protested at the San Antonio Savings Association (SASA) following nationally televised comments by then mayor Walter McAllister. McAllister, who was a major shareholder at the bank, said that his institution did not make many loans to Mexican Americans because of their poor work ethic. The response was picketing and demonstrations at the bank offices. Police responded by arresting protesters, including County Commissioner Albert Peña, Jr., Rosie Castro, and Arthur Gochman. Gochman was held for several hours, but was later released without being charged (Turner, 2010).

Gochman also pursued civil rights action in the courtroom. According to Demetrio Rodriguez, it was Gochman who approached the Edgewood Concerned Parents Association about formally filing their complaints as a lawsuit (Rodriguez, 2011). José Cárdenas recalled Willie Velasquez having a role as an intermediary between Gochman and the Concerned Parents group. Considering that Alberta Snid had worked at MAUC with Velasquez, it is also possible that Snid played some role in propelling the case. Regardless, Gochman became involved and took the case on a pro bono basis. Rodriguez said, “We were having a meeting, and they introduced him and told us he was a lawyer trying to help us. He will help us if you let him do it. I asked him, ‘Well how much money do you think it will cost us?’ ‘Oh, about a million dollars” (Gochman said). ‘Well we don’t have that kind of money’ (laugh)...he filed the suit with his own money”. While I still don’t know, and likely will never know, exactly why he made the case about wealth discrimination rather than racial discrimination, in most accounts and stories about Arthur Gochman, he seems to be a white ally in the Mexican American and African American struggles for Civil Rights (Yudof, 2011).

These narratives of school economics, community context, and activism illuminate the broader social and historic context in which the *Rodriguez* case was situated. All three themes are interconnected and contributed to the filing of this school finance lawsuit. During the case, race was included and excluded from legal and public discussion of school finance in ways that will be described in the following section.

## **Discussion of Race**

Even though the case was originally "a suit by Mexican-American residents of the Edgewood Independent School District in Bexar County, Texas, against all the school districts in the San Antonio Metropolitan Area..." on behalf of children in poorer districts, (*Rodriguez v. San Antonio*, 1969) the court documents and newspaper coverage of the case is largely devoid of race-based language. Building on the first section of this chapter, which provided an in depth exploration of the Rodriguez case within the broader racial context of Mexican American activism, the historic context of San Antonio, and economics, this section explores how the legal arguments presented before the Supreme Court were framed in terms of wealth rather than race. Specifically, official discussions of race in the courts and public discussions of race in media and by participants are examined here to answer my second research question.

### **Official Discussions of Race**

In this section, I describe the ways race was discussed in "official" language, such as in court documents, oral arguments, transcripts, depositions, or legal briefs. In this sense, this section examines the ways that legal argumentation included racial elements. The most succinct explanation is that race was not discussed. Race in an official context is glaringly absent. Other than a cursory nod to Mexican American parents filing the case, Edgewood being a predominately Latino district, and a minute portion of questioning during oral arguments before the Supreme Court, any racial basis for the inequalities presented in the case were not mentioned. While there was greater emphasis on race at the District Court level, the attention given to race still seems minimal



considering the connections to racial inequality that surrounded the case. Here, I provide evidence of how race was discussed in District Court, before the Supreme Court, as well as, document some of the strategy surrounding how race was presented or left out of court arguments.

**Inclusion of race before the District Court.** Race was hardly mentioned at the District Court level, but the exchanges between Gochman and the three-judge panel imply an understanding of discrimination and racism within the state of Texas. In this respect, race was included in the District Court arguments to a larger degree than when the case was presented to the Supreme Court, but even here the issue of race is present more implicitly than explicitly. Judge Adrian Spears was from San Antonio. He was the judge originally assigned to hear the case and was instrumental in getting the case heard before a three judge panel. Spears seemed clearly aware of district differences and understood the composition and struggle of families within Edgewood ISD. Perhaps because of this, the District Court did not compel a demonstration of the evidence illustrating known discrimination, and perhaps more specific and detailed information would have been more convincing to the federal Supreme Court.

There was also an interesting dynamic where Judge Spears gave the impression of coaching Gochman on how to present his case and who the case should be against in order for the case to go before a three judge panel. It was this shift to a three judge panel that ultimately elevated the case to a federal level rather than simply remaining a state or district matter. It appeared that between the instructions from Judge Spears, the pending *Serrano* case, and the pending finance case in Maryland, several factions were each

working to get a school finance case to the federal Supreme Court level. In spite of coaching, however, when the case was finally presented before three judge panel, the District Court judges seemed to chastise Gochman a bit. I got the impression from reading the transcripts of the oral hearing that the judges had laid out a case for Gochman in earlier evidentiary levels of the case and were fairly explicit in what they needed from him. When the judges did not get everything they had asked for, they rebuked him.

In auxiliary documents, two rare examples of extended attention to race came in the form of the testimony of J.W. Edgar, Commissioner of Education in the state of Texas during the case, and testimony from J. Richard Avena, the Regional Director for the Southwest Office of the U.S. Commission on Civil Rights. The following is a portion of the transcript of testimony given by J. W. Edgar. This was provided as evidence by Arthur Gochman at the District Court level, though a copy of these transcripts are also part of papers of Charles Allen Wright. I am unsure who questioned Edgar in the following exchange.

Q—Are you familiar with the history of Mexican-American school children in the public schools of the State of Texas?

Edgar —Generally. I have taught in Webb County. That area is where I first became acquainted with the Mexican-American children.

Q—Historically, have they not been discriminated against with regard to public education in the Texas schools?

Edgar—I would have to know more about what you mean by “discriminated against.”

Q—In some areas of Texas, separate schools have been provided for Mexican-American students in the past, is that not correct?

Edgar— Yes, that’s correct.

Q— And they were segregated from going to school with other students in the community, isn’t that correct?

Edgar— At least to the extent that the separate schools served an exclusive population area. I don’t think they have ever been legally segregated.

Q—Do you know whether or not there has been at any time any rules or regulations or guidelines which allowed the segregation of Mexican-American children either in classrooms or in schools in the state of Texas?

Edgar— Which allowed them?

Q—Right.

Edgar— There could have been, but I don’t recall any at the moment. Maybe you can refresh my memory.

Q—Do you know whether or not there is less money spent per student on the average in the State of Texas on Mexican-American children than on other children?

Edgar— I don’t know if this is true or not. It may be.

In his testimony, Edgar made a distinction between “segregation” as a legal issue vs. “separation” of Mexican American students. This de jure vs. de facto segregation issue was a continual problem in Latino desegregation lawsuits, as segregation practices were more difficult to prove than cases that involved racist laws. By testifying that

Latino students had never been legally segregated in Texas, he was placing blame for any segregation that occurred on individual districts and communities. He emphasized that there was no legal statute that segregated Latino students. Therefore, the state of Texas was not responsible for the practice of segregating these students. Also, given that a Supreme Court decision in *Cisneros v. Corpus Christi* had been reached in 1971, it was unlikely that Edgar was unaware of segregation practices in Texas schools or classrooms. In this portion and the bulk of his additional testimony, Edgar avoided making definitive statements about anything. He agreed that an adequate level of funding is needed for each district, but never stated what adequate meant. He claimed to have no knowledge that higher paying districts might attract higher quality teachers. Also, he pleaded ignorance with respect to Texas high school dropout statistics and stated that he lacked knowledge regarding how average daily attendance was used in determining state contributions to school funding. Edgar's testimony as a whole presents a commissioner of education who was either ignorant of education policies and practices or deliberately evasive. Either way, Edgar's lack of clear answers provides an example of the lax approach that the state of Texas seemed to take in this case. Mark Yudof remembered that state officials did not seem to take this case seriously and felt that it would be dismissed with little effort on their part. After losing at the District Court level, the state lost no time in filing an appeal and bringing in a prominent and experienced lawyer, Charles Allen Wright (Yudof, 2011).

J. Richard Avena was the Regional Director for the Southwest Office of the U.S. Commission on Civil Rights. At the time of his testimony, his office was conducting a

series of studies regarding conditions of Mexican Americans living in the southwestern part of the United States. These studies focused on things like education, economic opportunities, crime and police brutality, and voting. Avena stated, “These reports clearly document a pattern of discrimination against Mexican-American in Texas and in other southwestern states having a common border with Mexico.” *The Mexican-American Education Study* identified the ethnic isolation of Mexican Americans and language barriers as some of the problems facing students. These issues were then compounded by a lack of money allocated to improve education conditions. In this testimony, Avena was questioned by Charles Pat Bailey, the Assistant Attorney General of Texas.

Bailey—You mentioned in the field of education, in your affidavit, that in the past, there have been segregated schools for Mexican-Americans in Texas. When in the past are you referring to, Mr. Avena?

Avena—Speaking from now until the past, throughout the past.

Bailey—Well, when, to your knowledge, was the last instance in the State of Texas where there were segregated schools?

Avena—There are still segregated schools.

Bailey—I mean when you are saying “segregated” when you say “in the past” you say “in the field of education in the past there have been segregated schools for Mexican-Americans in Texas.”

Avena—Yes.

Bailey—I presume when you say “in the past” that there was some system existing some time back in the past that is different from what we have now.

Avena—No. I am saying that in our studies in looking at the educational systems, Mexican-Americans throughout the State of Texas have been segregated in school systems, some places less, some places more. There are places in the State of Texas today where there is still segregation.

Bailey—Now, to what extent do you mean by “segregation” there? How are they being segregated?

Avena--...[In a] variety of ways. Some are by districts. You will find some districts predominantly Mexican-American... [or some] schools within a district. You will find schools that have almost all Mexican-American schools. In some districts, we have found where there is integration, Mexican-Americans and Anglos, there are cases where Mexican-Americans are segregated into certain classes.

From here, the questioning shifted to focus on geographic areas with high Mexican American populations. Avena described these schools as reflecting community demographics. Basically, Avena was talking about schools like those on the border, where a given community or district is almost exclusively comprised of Mexican American residents. Bailey continued this questioning and connected it to housing patterns and largely Latino areas of San Antonio. Bailey stated, and Avena does not dispute, that the Edgewood area used to be “almost 100% Anglo.” While I have presented evidence earlier regarding housing patterns and development of Edgewood that

disputes this claim, the assertion of Edgewood initially being an all white district goes unchallenged in both the District and Supreme Court cases. Regarding these housing patterns in Edgewood, Bailey continues:

Bailey—The people chose to move into this area. The state or the county or the school district didn't move them into there.

Avena—Not necessarily. Sometimes it was their only choice.

Here, like Edgar, Bailey was making the argument that segregation level of housing patterns or geography was not caused by the state. If segregation existed, Bailey claimed that it was by the choice of the individual. Avena, on the other hand, referenced the limitation of choice through prohibitive cost of some residential areas or restrictive covenants. Switching back to issues of discrimination in schools, Bailey then asked if discrimination was based on race or educational abilities, such as language differences. At this time, segregation based on educational differences was still allowable.

Avena—If you are saying that a certain category means Mexican-American, I would say “Yes, they were being discriminated against, because they were Mexican-American.” But again, discrimination has many forms...[including] skin color, physical characteristics, language...

Bailey—Do you think it's being done strictly on a racial thing or it's more for the benefit of the child...?

Avena--...I think it's done strictly on race....I would grant to you that some teachers think they are trying to do the right thing.

Bailey asked what this opinion is based on, and Avena responded that his statements were based on research, personal experience, and interviews with administrators and teachers. “One principal in San Antonio said that generally he thought the Mexican-Americans were not qualified to be in the same classes with Anglos”. Later in this testimony, Bailey again made the argument through his questions that the state is not to blame. He does not dispute Avena’s claims, but insisted that because the state was not intentionally putting higher quality teachers or more books into schools with lower percentages of Mexican American students and because districts (except in the San Felipe-Del Rio case) were not built with the intent of segregating students, the state of Texas should not be held responsible. In addition to the broken record approach employed by Bailey regarding the State role in segregation and discrimination, it was also interesting that Avena had to keep reiterating that segregation and differential education treatment of Mexican American students was both a historic and contemporary problem. Avena was repeatedly asked about past issues of segregation, and Avena had to explain that segregation was going on in the present.

The original complaint was filed by Gochman in June of 1968. The third amended complaint, filed about a year later, included clear statements involving race and school finance.

“The Complainants are all of Mexican-American descent. The students of the Edgewood District are practically all Americans of Mexican descent. The percentage of Mexican-Americans in the Edgewood School District is higher than in the other Defendant school districts. As the percentage of Mexican-Americans



decrease in a district, the amount spent per student for education increases. In other words, the lower the percentage of Mexican-Americans in a Defendant school district, the higher are the expenditures per student” (paragraph 13). Here the link between race, wealth and educational expenditures is deliberately made. In this amended complaint, Gochman went on to discuss systemic patterns of discrimination towards Latinos in the southwest. It was in these court documents in 1969 that race is most explicitly discussed. Other districts responded to these allegations of racial disparity and discrimination in their written responses to the charges laid out in the complaint. Most denied or said they had “no knowledge of” historic patterns of discrimination. A few, including Alamo Heights even explicitly articulated that their districts did not discriminate against Mexican American students attending school in the district. These combined statements of not being aware of historic patterns of racism in Texas and the Southwest and of not treating Mexican American students within the district unfairly implies that many of these districts were simply ignoring problems of race. Rather than conceptualizing racism as systemic, these were personal responses against charges of racism.

**Inclusion of race before the Supreme Court.** In the case summary of *San Antonio v. Rodriguez* (March 21, 1973), the language in the overview of the case shifted to read, “In a suit by plaintiff parents on behalf of school children throughout Texas who were members of minority groups, or who were poor and resided in schools districts having a low property tax base...The Court found that the Texas system did not operate to the peculiar disadvantage of any suspect class” (p. 1, paragraph 4). Here students and

plaintiffs are no longer identified as Mexican American, are instead broadly included in “minority groups.” The case summary went on to describe the case as being about “discrimination based on wealth” (p. 3, paragraph 3) and did not mention race again. Given the context and community involvement that lead to the case initially, how was educational equality for Mexican American students not central to this case?

The oral arguments before the Supreme Court shed some light on this paradox. First, Arthur Gochman only briefly mentioned the concept of race in oral arguments, and only did so then by articulating that both poor and minority residents were largely the same group in Bexar County. In describing the problems that residents in low wealth districts face in Texas, Gochman raised mobility as “a serious factor in this case. You know, if this was a rich guy in a poor district, we wouldn’t be in court, he’d just move. But the poor have no way out of the present system.” One of the justices pressed Gochman on this point and asked about the statistical facts of his statement. Gochman contended, “We say the discrimination is based upon the wealth of the district, but we say that discrimination falls most heavily upon the poor and minorities...with regard to the racial discrimination...the discrimination is there on its face...that the minorities get less, both in Bexar County and statewide” (Oyez, 1972/2009, author transcript). Honestly, this is a weak attempt to link race and poverty. In some respects, Gochman may have been trying to maintain a consistent line of reasoning by sticking to the protection of wealth as a suspect class. In other ways, Gochman indicated that the connection between race and poverty was clearly evident on “face” value and did not need to be articulated

further. Regardless of the thought process, these first comments including any attention to race came 48 minutes into the hour long oral arguments.

Race came up again only once, this time by Charles Allen Wright in rebuttal. He included a quote from Coons, Clune, and Sugarman in his brief.

“It is not surprising that even the present litigation is understood by many of its close supporters as a racial struggle. The fact is otherwise. There is no reason to suppose that the system of district based school finance embodies racial bias. No doubt there are poor districts which are basically Negro but it is clear almost by definition, the vast preponderance of such districts is white” (Oral transcript, Wright Brief, p. 24).

Justice Douglas then asked Wright, “Was it any part of the District Court’s rationale in this Constitutional decision that this was racial discriminatory?” Wright responded, “No....There were allegations to that effect in the complaint, but the judgment below does not rely on that.” This brief, direct interchange was one of the few explicit statements regarding race made during the entire hour of arguments. Yet, Wright’s answer made it clear that race was not a part of this case because the District Court ruling did not include race as a foundation of its argument. Essentially, because race was excluded in the opinion delivered by the District Court, race could not be a central argument in the case before the Supreme Court. Despite this, Justice Douglas commented to Wright that the testimony “pretty clearly demonstrates there is unequal treatment of these respondents who are Americans of Spanish ancestry” with regards to education. Wright acknowledged the issue, but countered, arguing that though the “vast

majority” of Edgewood students were Mexican American, he claimed that it was “a happenstance that we have a case in which we have particular plaintiffs who are Mexican American and who live in a district with low taxable resources.” He reasoned that there was no evidence supporting a connection between district wealth and race and that the lower courts agreed with this statement.<sup>10</sup> These brief exchanges that explicitly draw attention to race indicate that the framing of the school finance policy discourse to include discussions of class but to exclude discussions of race occurred before the case ever reached the Supreme Court. This framing persists in the way that school finance continues to be debated and will be discussed further in the analysis and implication sections. Additionally, the inclusion of this quote by Wright is an attempt to remove any question from the minds of the Supreme Court regarding race as it relates to school finance and it also illustrates his overarching tactic of using literature and economic theory to argue the case, not the context of evidence presented. In 1977, Columbia Law Student Mary Sandoval wrote a letter to Wright and specifically asked a question about racial bias in the case. Wright wrote back saying, “I was completely persuaded there was no racial bias. I think that what Professor Coons said on that subject, quoted at page 24 of my brief, fully answers that point” (Charles Allen Wright Papers).

***Exclusion of race.*** The case made before the Supreme Court in 1972 was not about Mexican American students. Even though the plaintiffs in the case were Mexican American parents whose children attend school in a district that served predominantly

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<sup>10</sup> Oyez audio—author’s transcript of the oral arguments; Charles Alan Wright Papers

Mexican American students, the case, as it was presented to the court, was not about race.

In the majority opinion written by Justice Powell,

“Appellees brought this class action on behalf of schoolchildren said to be members of poor families who reside in school districts having a low property tax base, making the claim that the Texas system's reliance on local property taxation favors the more affluent and violates equal protection requirements because of substantial interdistrict disparities in per-pupil expenditures resulting primarily from differences in the value of assessable property among the districts” (*San Antonio*, 1973).

This means, as far as the court was concerned, the case was about poor families and differences in district wealth, not about discrimination against Mexican American students. The court documents, such as amicus briefs and the trial transcript, provide ample examples that the arguments made were largely based on class. Wealth differences that lead to unequal school spending, not race. Yet, in examining these arguments and claims, there is also evidence of seeking to exclude or ignore potential race based arguments and opting for class based arguments instead. Put another way, elements of the case based on income and geography have clear racial implications regardless of how they were presented in court or interpreted by the Judges.

One example of how a greater attention to race could have been beneficial to the *Rodriguez* side of the argument is in interpreting how the Justices applied the 14<sup>th</sup> amendment. In a case that argues for application of the Equal Protection Clause, judges must first determine whether to apply strict scrutiny or rational review. At the core of

Powell's majority opinion is the ideas that wealth is not protected and education is not a fundamental, therefore there is no need to apply strict scrutiny. Further, the Texas funding system satisfied rational review because it was comparable to other states with such a high reliance on property taxes, and it preserved local control and provided basic education for all students. Strict scrutiny must be applied to cases involving protection claims based on race or "suspect classification" while rational review is applicable to other claims, such as those based on economics. This argument in this case, as constructed by Gochman and his team, was that wealth was a suspect classification. Therefore, strict scrutiny should have applied. In written opinions, only Justice Marshall entertained the notion that strict scrutiny applied here because of a suspect classification. While Powell claimed that there was no easily identifiable class to protect, Marshall and White both stated that the poor were easily identifiable (*San Antonio*, 1973). Even though White applied rational review to come to a dissenting opinion, he writes there was "no difficulty in identifying the class" subject to discrimination (*San Antonio*, 1973). Marshall posed an additional question to those on the majority: If wealth did not matter, then why were so many of the wealthiest districts in the nation pursuing this case? Indeed, San Marino Unified, Beverly Hills Unified, Bloomfield Hills, Michigan, Grosse Pointe, Michigan, and Dearborn City, Michigan had all submitted statements siding with a reversal of the District Court decision (*San Antonio*, 1973; Soltero, 2006).

Strict scrutiny also would have applied had members of the Court viewed education as a fundamental right. In his dissenting opinion, Justice Brennan applied this strict scrutiny to education as a protected right, adding that it was a "distressing

assertion” that the Court only protected explicitly or implicitly stated rights. Brennan wrote that “fundamentality” links education to rights to vote and of free speech, therefore any analysis of education should be according to Strict Scrutiny (*San Antonio*, 1973). With regard to wealth as a suspect class or understanding education as a fundamental right, Gochman simply did not present a convincing enough argument on this point, or the Supreme Court as a whole was just not going to go for this argument, however well it was presented. Had the argument been based on race, there would have been less room for justices to claim that strict scrutiny did not apply.

An additional way of examining the exclusion of race in this case is to look at the ways that wealth or geography were used instead of race. In oral arguments, Gochman was asked about how districts were formed in Texas, and if the state was responsible for their creation.

“The state set up the system for the convenience of the state, but the boundaries are adjusted by the majority of votes by adjoining districts...but the problem is that nobody’s is going to join up with Edgewood. The San Antonio Independent School District...continually took in neighboring districts but it’s not going to go to the barrio, (or ask) the majority of people of San Antonio to vote to take it in. It would injure its ability to teach its present students by deciding to take in Edgewood” (Oyez, 1972/2009, author transcript).

Later Gochman reiterated that Edgewood was comprised of students from the barrios and added, “The Edgewood people would like to live in Alamo Heights, but they have no way to do it and the only way they can get a fair education is to get out of Edgewood”

(Oyez, 1972/2009, author transcript). These and other statements presented a bit of a mixed message. There was not one single, linear argument being made, but a complex network of issues involving wealth, geography and race. In the book *Education Law Stories*, Heise writes about this case and other school finance cases in terms of geography as a predictor for educational outcomes. "All the reasonable observers may differ on how to best understand what equal educational opportunity means in any given context, reasonable observers should agree that if equal education means anything, at the very least, it must mean that geography should no longer predict child's educational future. The link between the happenstance of geography and education quality is precisely what *Rodriguez* and the school finance litigation movement it contributed to sought to sever" (pp. 73-74). Yet, geography is not a result of happenstance as Heise and Wright would both like to claim. Geographic distribution in San Antonio is a result of race and economic factors and should not be understood as a separate entity. While Gochman attempted to present this complexity in the case, the result was an uneasy relationship among race, resources, geography and difficulty in viewing the impact on student achievement.

Finally, the most obvious exclusion of race is in the written opinion from the three judge panel at the District Court. Even though Gochman made race more explicit at the District Court level, in the form of written statements and oral arguments, the testimony of Avena, and the attention to race used by Joel Berke in his economic analysis, the five page opinion of the district court made no mention of race. Even though this was a court victory for Gochman, Rodriguez, and the other plaintiffs, the court ruling was based



entirely on wealth disparities and application of the 14<sup>th</sup> amendment (*Rodriguez*, 1971).

As a result, the District Court shifted the argument and focus of the case. This shift, along with changes at the Supreme Court level, resulted in a change in tactics on the part of Gochman, Yudof, and Spector as they prepared a strategy for making a case to the Supreme Court.

**Strategy for using or excluding race.** In the language of the case and in various court documents, race was not a prominent focus. Yet, as laid out earlier, there are strong racial elements that prompted the initiation of this case. The disconnect between underlying context and legal strategy is an interesting aspect of trying to understand this case. In this section, I describe the use of economic theory, a potential rationale for making the case about wealth, and the national implications that may have also impacted the strategies employed in *Rodriguez*.

The use of economic theory was one strategy utilized in this case, particularly by Charles Allen Wright. Wright often made reference to Professor Coons in his oral arguments, even beginning his remarks with:

“Mr. Chief Justice, may it please the court...I would like to take as the text for my argument this morning a sentence from an article that Prof. Coons and his collaborators, Sugarman and Clune wrote last year. They said, ‘Of all public functions, education in its goals and methods is least understood and most in need of local variety, experimentation, and independence.’ That, I think is wise counsel. I believe that is the argument for reversal in this case” (Oyez, 1972/2009, author transcript).

In this introduction Wright went on to make claims that because of the local control present in the current Texas finance system, Texas did indeed allow for variety and independence, and that it did so on a rational basis. Wright stated that the District Court took a “rigid” view regarding district wealth and educational quality which, if not overturned, “would seriously inhibit, if not destroy altogether, the possibilities for local variety, experimentation and independence of which Coons, et al. speak so warmly” (Oyez, 1972/2009, author transcript). Wright is allowed to orate on Coons, Clune, and Sugarman without interruption for the first seven minutes of oral arguments, using their terminology and concept of “district power equalizing” to establish the notion that the system of financing schools in Texas is based on economically sound principles. Wright cited Coons four additional times in his initial remarks and once more in his rebuttal, using the quotation about race mentioned earlier. This not only identified Wright as using economic theory strategically, it also forced Gochman to field questions from the Justices about ideas like district power equalizing and fiscal neutrality.

Again, in correspondence between a Columbia Law student Mary Sandoval and Chales Allen Wright, Sandoval specifically asked Wright about his strategic approach in the suit. In Wright’s response, he described that he had thoroughly done his research on the case and on school finance in Texas, yet he had difficulty in coming up with a logical way of organizing his argument. He was on a flight coming back from Washington, D.C. and reading a mystery by Scottish author Josephine Tey “when it suddenly leaped into my mind how the brief should be written.” He scribbled down his notes and the five

points he wanted to make inside the back cover of his book. Wright's overarching strategy was simply,

“to take on Professor Coons rather than the plaintiffs in the case or the court below...Both in the brief and in the oral argument, I went out of my way to conceded the seriousness of the problem and to pay tribute to Coons and the others who had been thinking hard about it and hunting for solutions. It seemed to me absolutely clear that it would have been fatal if I had scoffed at them or minimized the seriousness of the matter. As you saw from the district court opinion, the lawyer who represented the State below thought it was enough to denounce what the plaintiffs were asking for as socialism. I thought that was a stupid tactic and preferred to follow a different course” (Charles Allen Wright papers, 1977).

Here, it is clear that Wright was presenting the case and used his brief and evidence to make an argument based on economic theories rather than the context or the plaintiffs that originated the case. By doing so, Wright removed all possibility of making the case about racial inequality. In drawing heavily from Coons, Clune, and Sugarman, Wright was able to define the problem of the case as one of economics. He was further able to successfully use this strategy by influencing what economic knowledge was valued and what was dismissed by the Court. In oral arguments, he introduced a study from “the issue of the Yale Law Journal that was published on Tuesday of this week” (Oyez, 1972/2009, author transcript) that provided a rationale for dismissing any connection between family wealth and district wealth. In other words, the study found that there was

no clear correlation between individual poverty and district poverty (Churgin, Ehrenberg, & Grossi, 1972). This study examined data from Connecticut, not Texas, yet it was this “Yale Note” that was cited again by Powell in his written majority opinion of the Court.

“Indeed, there is reason to believe that the poorest families are not necessarily clustered in the poorest property districts. A recent and exhaustive study of school districts in Connecticut concluded that ‘[i]t is clearly incorrect...to contend that the ‘poor’ live in ‘poor’ districts...Thus, the major factual assumption of *Serrano*—that the educational financing system discriminates against the ‘poor’—is simply false in Connecticut.’ ... Whether a similar pattern would be discovered in Texas is not known, but there is no basis on the record in this case for assuming that the poorest people—defined by reference to any level of absolute impecunity—are concentrated in the poorest districts” (Powell, 1973 and quoting Churgin, Ehrenberg, & Grossi, 1972).

By and large, this meant that the opinion was not based in the economic and statistical data compiled by Berke and Morgan that directly linked to San Antonio and the Texas finance system, but instead relied on data from Connecticut. It is interesting to me that a published journal article that only came out the week of oral arguments could play such an important role in the case. This article was not in Wright’s brief, but it prominently featured in Powell’s opinion. In response to the use of this source in the majority opinion, Marshall wrote in his dissent, “Common sense suggests that the basis for drawing a demographic conclusion with respect to a geographically large, urban-rural, industrial-agricultural State such as Texas from a geographically small, densely populated, highly

industrialized State such as Connecticut is doubtful at best” (*San Antonio*, 1973). The majority of the Court seemed to want to side with Wright and to rule against this case, and this information was used to support the ruling they wanted to make (Yudof, 2011). The ruling privileged some economic arguments and statistical data over others, making the use of theory and data a strategy that worked well for Charles Allen Wright.

In addition to economic theory used at strategy, examining the change in strategy by Gochman from a heavily race based argument to one focused on wealth discrimination is key. Mark Yudof, who only became a participant after the District Court decision, articulated a three prong approach to argue this case before the Supreme Court. Gochman presented Civil Rights type arguments in the District case, yet the District Court ruling did not rely on race based inequality for its findings. This, combined with the Constitutional law experience of Yudof and the change in composition of the Supreme Court, yielded an approach based on race, wealth, and the protection of children. While this three prong approach made sense as it was described by Yudof, the brief, oral arguments, and other court documents appeared more heavily rooted in the argument of the protection of wealth as a suspect class. While some of this switch in tack might be connected to the addition of Yudof to the case, this need or desire to approach the case differently was also strongly rooted in the changes in the Court itself. From the time that the case was first filed by Gochman in 1968 to oral arguments in 1972, the Supreme Court contained four new members as well as a change in Chief Justice. Earl Warren retired from the Court in 1969. President Johnson had tapped Abe Fortas to become the next Chief Justice in his place, but Fortas left the Court in 1969 as well, amid

ethics concerns. With positions open on the Supreme Court, Nixon took office in 1970. With the retirement of Justices John Marshall Harlan II and Hugo Black, Nixon had the opportunity to appoint four new Justices. Warren Burger became the new Chief Justice. Nixon also appointed Harry Blackmun, Lewis F. Powell, Jr., and William Rehnquist who joined William Brennan, Jr., Potter Stewart, Byron White, and Thurgood Marshall on the Supreme Court. José Cárdenas remembered this change as significant. From his perspective, the *Rodriguez* case was the first major civil rights case under the Burger court. With the addition of Nixon appointees, the court took a more conservative turn. “Keep in mind that President Nixon appointed quite a few conservative Supreme Court Justices ...and right now I think you would be laughed out of court if you filed a desegregation court case similar to *Brown v. Board of Education* or any of the cases that I participated in. Why did it fail? One is that the brunt of desegregation was placed on the minority population” (Cárdenas, 1997a). Here Cárdenas picked up on the idea that it was not just a shift in the membership of the Court, but also marked a major shift in the ideology of the Court. As can be seen in this case, this new court departed from previous approaches to civil rights cases by demanding proof of intent to discriminate. Along with this proof of intent, rational was a necessity for plaintiffs to present themselves as victims, an unpalatable position for many (Raymond, 2008).

Yudof also commented on the necessity of a new strategy before the new Supreme Court. He stated that the *Rodriguez* lawyers went into the case knowing they were going to lose. The ideological differences between the 1968 and 1972 Supreme Court Justices made a defeat in court a forgone conclusion. The goal, then, was less

about winning and more about trying to present a case that could get the most votes in favor of the Rodriguez plaintiffs. The aim was to select a strategy that best met the needs of their clients and to focus on court output over causal inputs. Essentially, even if the case was really about race, a race-based case was not going to win. Therefore, the three prong approach was adopted (Yudof, 2011).

A final interesting strategic area for understanding this case came from examining briefs of amici curiae for and against this suit. Justice Marshall, for example, noted in his dissenting opinion the number of wealthy districts who wrote statements against the case. In understanding that affluent, mostly white districts were all writing briefs supporting a reversal in this case, and poorer districts and districts that serve students of color were writing in support of *Rodriguez*, it is again clear that the case is about more than money. It is also worth noting that even though the name of the case is *San Antonio v. Rodriguez*, *San Antonio*, San Antonio ISD successfully petitioned to be removed from the case. Of all the districts named in the suit, they have the most in common with Edgewood in terms of demographics and challenges in generating property tax revenues. After their removal, lawyers for San Antonio also wrote an amicus brief on behalf of Rodriguez and called for a change to the Texas school finance system. Others who filed amicus briefs urging affirmance of the lower court ruling include the organizations of the American Civil Liberties Union, The NAACP Legal Defense and Education Fund, the National Education Association. The City Council and Mayor of Baltimore, the State Controller of California, the Superintendent of Public Instruction in California, and the Attorney General's Offices of the states of Minnesota and several others. John Coons also filed a

brief in support on behalf of John Serrano. Coons was representing Serrano in the pending court case in California, and it is interesting the Controller and State Superintendent of the state also supported affirmance. At the time, there was also a pending case on federal grounds in the state of Maryland, thus the brief from the Baltimore City Council is important (*San Antonio*, Syllabus 36 L. Ed. 2d 16, 1973).

However, this is a rather short list compared to those who filed amicus briefs urging a reversal of the District Court ruling. Attorneys General from Alabama, Arizona, California, Colorado, Connecticut, Idaho, Indiana, Iowa, Kansas, Louisiana, Kentucky, Maine, Massachusetts, Mississippi, Missouri, Nebraska, New Hampshire, New York, North Carolina, North Dakota, Oregon, South Carolina, South Dakota, Tennessee, Utah, West Virginia, Vermont, and Wisconsin joined Texas in their position. This made a total of 31 states in addition to the Superintendent of Schools of the County of Los Angeles filing briefs urging reversal. Again, it is important to note the states of New Jersey, Maryland, and California as all had pending school finance cases in their own states.

The amicus briefs tell a story that the parties involved understood that a victory for the *Rodriguez* plaintiffs could require all states to equalize funding. This fact was also cognizant in the minds of Wright and attorneys like George Liebmenn of Baltimore and Stephen Skillman of New Jersey. Because of pending cases, these lawyers took a specific interest in the *Rodriguez* case and helped with Wright's coordinated efforts to get state support for his position. Liebmenn was in the process of defending Maryland's system of finance, a state that had no state constitutional provision for further legal arguments if the ruling in *Rodriguez* was reversed. Letters illustrate the coordinated



effort led by Wright and Liebmenn to detail a “division of labor” and to coordinate various briefs filed by other interested parties, minimize any conflicting sentiments, and to recruit as many state supporters as possible. In a letter, Leibmenn presumably wrote to all the state Attorney General Offices on behalf of Wright saying, “Counsel for Texas believes that submission of a brief with the maximum possible number of state signatures would be of value.” In this letter he articulated “reasons for filing a brief” to persuade more states to join. His three main points for filing included the geographic scope of what the *Rodriguez* decision would mean for individual states. A national decision to reverse “would do much to slow the Serrano-Rodriguez movement in the District Courts.”

Additionally, he stated that education as a fundamental interest needs to be addressed, and in Liebmann’s opinion, needed to be retained as a state right rather than interpreted as having federal protections. Finally, this letter included the reason that if more schools sign or file briefs, then there was more attention on the case and a greater likelihood of slowing down school finance actions at the district court level. Liebmenn further asked for copies of briefs that would be filed independently and added, “I would strongly recommend that you review the brief with Professor Wright...prior to its filling, so that any possible embarrassments can be avoided” (Leibmenn, 1972, Charles Allen Charles Allen Wright Papers). Additionally, many states and legal interests pressed for ruling in *Rodriguez* because of the “weak” argument presented to the lower courts.

Correspondence between Wright and Liebmenn and Wright and the Texas Attorney General’s Office expressed a belief that the *Serrano* case or other pending cases might be

more compelling to the Supreme Court and described a need to win now (Charles Allen Wright Papers). In a letter to Pat Bailey, Wright noted,

“Precisely because the *Rodriguez* opinion is so weak, it seems to me that anyone opposed to the *Serrano* line of the decisions would want the Supreme Court to pass on this in the context of *Rodriguez*, rather than suggesting a course that would lead to sending our case back for appeal to the Fifth Circuit while some other, possibly stronger, case may come along. And I would think that anyone opposed to the *Serrano* line would want the Supreme Court to quash it now, rather than to permit an extended period of continued uncertainty” (Charles Allen Wright papers, 1972).

After the *Rodriguez* decision, Wright’s views on preparing arguments and his beliefs about educational finance were demonstrated through various pieces of correspondence. Again, in a letter to Sandoval, Wright wrote, “I was completely persuaded there was no racial bias,” though he did admit that he was concerned that the Court would conclude that education was a Constitutional right. “Plainly, I was fearful on that point. The more important thing is that I was persuasive.”<sup>11</sup> Wright was confident in the position he was representing, and for him, the case was simply about preserving local control. In a letter to Allan G. Cannon, the superintendent of Alamo Heights, Wright stated,

“It is an important victory, not only for states rights and constitutional government but also, in my judgment, for education. I think that if we had lost it

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<sup>11</sup> Charles Allen Wright Papers—Letter to Mary Sandoval, April 28, 1977.

would have meant a diminution in experimentation and initiative in education. I also think in the long run it would have meant less money being spent on education. People are far more willing to tax themselves for school purposes when they believe it is for their children's schools that will be using the funds rather than having them go into a state pool.”<sup>12</sup>

These statements make it clear that Wright did believe that local control would result in better economic solutions to school finance issues, despite the inequalities present in the system at the time. Additionally, Wright seemed to understand the national implications of the case, writing “I kept the states from being forced into a straight jacket on school financing,”<sup>13</sup> yet he, and other politicians, seemed to fail to anticipate the generations of state level litigation that followed. Gov. Dolph Briscoe praised the *Rodriguez* ruling. “The Supreme Court decision apparently leaves the question of public school financing in the hands of the lawmakers rather than the courts.”<sup>14</sup>

Also following the decision, Liebmann wrote to Wright saying that the win “effectively lays to rest further school finance litigation in the federal courts... We think that the increasingly effective defense of these cases around the country and the ‘drying up’ of unfavorable decisions in the trial courts, importantly contributed to the result achieved... Since our case in Maryland is a case brought in the federal court and on federal constitutional grounds only, and since there is virtually no prospect of a

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<sup>12</sup> Charles Allen Wright Papers—Letter March 27, 1973 to Allan G. Cannon, superintendent of Alamo Heights ISD

<sup>13</sup> Charles Allen Wright Papers—Letter to Maury Maverick, professor at Incarnate World in San Antonio (and former mayor of San Antonio)—December 23, 1976

<sup>14</sup> *San Antonio Express*, “The Capitol: State Official View Ruling as Relaxing, But Push Plan” March 22, 1973 p. 3-A

successful suit in this State founded on constitutional grounds, our role in this matter is now nearing and end” (Liebmann, 1973, Charles Allen Wright Papers). Liebmann was correct that is marked the end of federal finance trials. Maryland was at end roads in the matter until school finance reform advocates in the state effectively changed the state constitution to reflect necessary changes to legally challenge the system. School finance cases in Maryland were delayed, but not derailed. Attorney General Skillman also sent a celebratory letter to Charles Allen Wright, yet success for Skillman was short lived. By the time a ruling in *Rodriguez* came out, a new *Cahill v. New Jersey* suit had already been prepared. Immediately following the ruling from the Supreme Court, *Cahill* was filed and was successfully argued by advocates of school finance equity at the state level.

### **Public Discussion of Race**

In order to get a feel for how race was included or excluded from the ways in which the public perceived or talked about this case, I have examined newspaper archives during the time surrounding the case. The way this case was covered varied by media outlet. Not surprisingly, the most focused attention on the case appeared in San Antonio papers. What I did find surprising was the lack of coverage in other Texas newspapers such as the *Houston Chronicle* and the *Dallas Morning News*. These large papers would have occasional articles, usually on days that had significant trial related events, but limited in depth coverage or much coverage of Mexican American issues. Similarly, national newspapers such as the *Washington Post* and the *New York Times* also paid little attention to Mexican American civil rights issues and events of the Chicano movement. Again, these papers covered significant trial events, but did not look at the issue in depth.

This contrasted sharply with rich coverage and inclusion of context regarding issues of school desegregation and related race issues between Blacks and whites at the time. States with higher Latino populations during the time of this case were more likely to report on events of the case and contextual issues. The *Los Angeles Times*, for example, provided coverage of student walkouts, Chicano organization, and labor movements. While more attention was given to these events in California, Texas coverage was more prominent in this paper than in national papers or Texas papers outside of San Antonio.

Additionally, when newspapers in areas with small Latino populations did report on the case, they used the language of the courts without drawing attention to race or the deeper context surrounding school finance issues in Edgewood. In these papers, the case was only about fiscal equity in education and was not presented as an issue of civil rights for Mexican American students. In San Antonio, urban areas with high Latino populations, and Spanish-language newspapers, reporting on the case included greater contextual elements and more thorough coverage in general regarding both the case and Chicano activism. This coverage was not necessarily positive as many journalists in San Antonio had clear biases against militant Chicano activities.

**Student Walkouts.** Before the Rodriguez family and 13 other individuals became plaintiffs, 400 students in Edgewood High School staged a demonstration to voice their frustration in attending an underfunded school. MAYO organized the walkout and related student movements in area schools. On May 16, 1968, Edgewood students held a walkout specifically protesting of their lack of access to quality teachers and a lack of supplies. The walkout may have encouraged parents to become more actively

involved with this fight. With this understanding of the connection between Chicano activism and school funding, we can better comprehend school finance protests as a racial issue. Additionally, we are able to see these movements as a part of the larger Civil Rights struggle for Mexican Americans. The Edgewood walkout was one of several student lead protests in the state over the next two years. Within the San Antonio area, there were threats of walkouts at Kennedy and Memorial High Schools in Edgewood ISD and protests at Fox Technical and Lanier High Schools in San Antonio ISD. The towns of Cotulla, Uvalde, Pharr, Corpus Christ, and Elsa were also locales for MAYO affiliated student demonstrations.<sup>15</sup> In the largest of these demonstrations, anywhere from 1,000 to 1,700 students organized walkouts in Crystal City to protest against discrimination and a lack of bilingual education programs. These protests lasted over two weeks, garnered national attention from the Department of Justice and the Department of Housing, Education and Welfare, and ultimately lead to the administration meeting student demands. These walkouts received mostly local coverage from newspapers in San Antonio, Laredo, Corpus Christi, Brownsville and other smaller weekly newspapers. When the federal government intervened, these stories were reported in the *Washington Post* and *New York Times*, as well. Articles in the *San Antonio Light* varied in their interpretation of the events at Edgewood High School. One described student participants as “mislead by their leaders”, implying that the presence of MAYO leaders, such as Willie Velasquez and Matt Garcia, was corrupting youth and encouraging them to

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<sup>15</sup> *San Antonio Express/News* 1/11/70; *Lubbock Avalanche Journal* 4/18/70; *Valley Morning Star* 2/7/71; *Corpus Christi Times* 7/16/70; *The Mexia Daily News* 11/4/68

turn their backs on education. In contrast, another article went into great depth in interviewing students to get at the rationale for organizing the walkout and emphasized student desires to improve education. Photographs of participants showed signs reading “Better education now, not tomorrow” and “Everyone in America deserves a good education.”

Similarly, reactions to MAYO and its tactics were mixed among Mexican Americans, and coverage of Chicano actions varied as well. Headlines regarding MAYO protests fluctuated from “The Militant Chicano” to “MAYO Concerned with Change”. One Crystal City parent commented that he was disturbed by these student actions. “It has taken us a good many years to get to the level where they are at, and...all this is undermined in a matter of a few days. Just because you see a big crowd, don’t think it represents the whole Mexican-American population.”<sup>16</sup> Others went further in decrying the actions of MAYO. U.S. Representative Henry B. Gonzalez referred to the group as a “bunch of irresponsible juveniles with tamales on their shoulders.”<sup>17</sup> While it is not clear what Edgewood parents thought about the affiliation with MAYO, they clearly supported the actions of their own children and continued to advocate on their behalf through the court system.

In 2009, the participants of the 1968 walkouts were recognized by the San Antonio Association of Hispanic Journalists and were presented with the Community Service Award. The poster below was created to commemorate the occasion.

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<sup>16</sup> *San Antonio Express/News* 1/11/70

<sup>17</sup> *The Sunday Sun* 8/31/69



**Response to the decision.** The response to the decision from *Rodriguez* supporters was less than favorable. Arthur Gochman, attorney for the plaintiffs, stated he saw no more avenues of legal action to pursue and compared the decision on this case to



*Plessy*, which upheld segregation for 60 years.<sup>18</sup> Demetrio Rodriguez stated, “The Supreme Court told us to approach the state, and that is what we will continue to do.”<sup>19</sup> And in his dissenting opinion, Justice Thurgood Marshall wrote, “The majority’s holding can only be seen as a retreat from our historic commitment to equality of educational opportunity.”<sup>20</sup> To further speak out against the ruling and to express dissatisfaction with a proposed “stopgap” aid program from Governor Dolph Briscoe, members of the People’s Lobby for Equality in Education (PLEE) marched on the state capital on May 2, 1973. The group consisted of around 4,000 participants. Many were from the San Antonio based organization but also included members of La Raza Unida and the Brown Berets.<sup>21</sup> Briscoe was booed as he tried to address the crowd and to explain his program of “enrichment grants” to supplement the state’s funding system. Under this plan, Edgewood would receive \$1.8 million. This did not satisfy Raza and Brown Beret protesters. Brown Beret members raised a Mexican flag on the capitol flagpole, and other affiliates of both groups filled Gov. Briscoe’s office and the capitol rotunda, demanding to speak to the Governor. During Briscoe’s address to the crowd, attendees began to chant, “We want Ramsey”, referring to Ramsey Muñiz, the 1972 Raza Unida Party candidate for governor<sup>22</sup>. While members of PLEE dismissed the actions of Raza members as rude or inappropriate, Demetrio Rodriguez expressed his disappointment in

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<sup>18</sup> *San Antonio Express*, Jerry Deal and Pat Flores, “Continued Fight Vowed in Edgewood” March 22, 1973 p. 3-A

<sup>19</sup> *San Antonio Express*, March 22, 1973 p. 3-A

<sup>20</sup> *Rodriguez v. San Antonio* documents, Oyez

<sup>21</sup> *San Antonio Express*, Pat Flores, “People’s Lobby March Left Mixed Emotions” March 3, 1973 p. 3-A

<sup>22</sup> *San Antonio Express*, May 3, 1973 p. 3-A

the plan by saying, “Briscoe is just trying to bribe us”. Many others agreed that the *Rodriguez* ruling and the Governor’s plan only relieved the Texas Legislature of the pressure of fixing the school finance system.<sup>23</sup> Counter to Charles Alan Wright’s view that the legislature would more efficiently create a more equitable funding system without the courts, additional lawsuits were filed at the state level, and the result was anything but efficient. State level courts pushed legislative action, but a constitutional plan to equalize funding in Texas was not reached until 1995—22 years after the *Rodriguez* ruling.

This section focused on how race was discussed in the *Rodriguez* case, both officially and publically. As is clearly illustrated, discussions of race were largely absent from court documents, testimony, oral arguments, and judicial opinions. Newspaper coverage of the case also used the language of the court and did not present the case as having racial implications. Fundamentally, race was discussed only minor ways in this lawsuit.

### **Conclusion**

The data collected addressed questions about what factors prompted the case and how race was discussed in the *Rodriguez* case. Economic factors including both personal and school economics contributed to the perceived need file the case. Additionally, the context of San Antonio, including narratives of housing quality and amenities, education, segregation, and geography also illustrated a race-based history of inequity and facilitated

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<sup>23</sup> *The San Antonio Light*, Grace Bassett, “Pressure for School Finance Reforms Considerably Eased”, March 22, 1977, p. 11-A

the case. Finally, stories of labor, traditional, and Chicano activism framed this legal action. Though these narratives demonstrated a strong link between race and the lawsuit, the race was only minimally discussed in official court contexts or in public media. This disconnect warranted further attention and analysis. Interpretation and gathering meaning from these findings follows in the following analysis chapter.

## **CHAPTER 5: ANALYSIS OF FINDINGS AND APPLICATION OF LATINO CRITICAL RACE THEORY FRAMEWORKS**

The broad purpose of this dissertation was to examine the inclusion and exclusion of race within school finance policy. The framework and methods for this project yielded narrative findings about the *Rodriguez v. San Antonio* school finance lawsuit. Because this project drew from CRT and LatCrit tenets, specific attention to critical policy analysis was applicable. While traditional policy perspectives view analysis as objective, rational, and as a method for arriving at policy decisions, critical policy analysis accepts the value-laden nature of policy and emphasizes inequity and social power in understanding policy. Critical analysis is concerned with social and historic contexts and seeks to uncover, dismantle, or deconstruct oppressive political and social structures. The critical policy laid out here relies heavily on using some of the theoretical underpinnings of CRT and LatCrit to critique and dismantle some of the normative and traditional understandings of school finance policy. The approach to analysis, the resulting analytical themes and additional discussion are included in this chapter.

### **Latino Critical Race Theory as a Tool for Critical Policy Analysis**

Latino Critical Race Theory was used in this dissertation in two major ways. First, I used LatCrit to shape the way I understand and define the subject of my dissertation. The tenants and underlying principles of CRT and LatCrit focused my attention on issues of race, and have a strongly impacted the formation of my research questions in this

endeavor. As such, I have been drawn to selecting sources that hold true to the tenets of LatCrit while illuminating the context, history, and experiences of individuals who participated in this case or in the events surrounding this case. The second major way that the CRT and LatCrit frameworks impacted this research was through its application in the meaning making process. Specifically, CRT and LatCrit perspectives helped to tease out, shape, and make meaning of the study's findings. It is in this section, I present my critical analysis of the events and policy implications of the *Rodriguez* school finance case. Within this analysis I emphasize the importance of understanding notions of property, incrementalism and interest convergence, and problem definition in policy.

### **Property**

There are multiple ways of examining property within the bounds of the *Rodriguez* case. First, there is the literal understanding of property ownership and wealth. Even at the time of this case, there was a strong reliance on property tax revenues as a funding source for Texas schools. Indeed, vast disparities existed between areas of high property wealth and the areas of low property wealth. These differences in property stem from more systemic issues of wealth distribution, and contributed significantly to the major differences in a district's ability to generate and spend revenue on education. These inequalities were not disputed in court. Even Supreme Court justices voting against upholding a lower court decision noted flaws and problems with the way school funding played out in the state of Texas. While they were unwilling to enforce change or to consider the grievances presented in the *Rodriguez* case a violation of federal rights or constitutional protections, they did acknowledge that the Texas Legislature should

remedy this situation. Going deeper than just the opinion of the case, however, reveals an understanding of property and land ownership as an outward sign of wealth and power.

In Texas, there has been a historic shift in who has held the wealth, dominance, and property in the state. “Immigrant groups enter a new territory or society voluntarily...Colonized groups become part of a new society through force or violence; they are conquered, enslaved, or pressured into movement” (Blauner, 1972, p. 52).

Texas did not begin as a state or as part of the United States. Prior to Texas functioning as an independent country, the area was of course part of Mexico, and Spanish territory prior to that. As such, land ownership and wealth was largely in the hands of Latinos in the years of early European settlement. It was not until a struggling newly independent Mexican government allowed immigration of white settlers from the United States into Texas territory, in part to help maintain territorial claim in the region and to combat the challenges to this dominance from native peoples in the area, that property in Texas began to be controlled by whites. These white settlers eventually grew tired of living in Mexican territory, instigated a rebellion, and formed an independent country. The language within the Treaty of Guadalupe-Hidalgo expressly states that the land rights of Mexican citizens remaining in Texas should be protected. This clause however was largely ignored, and Mexicans in Texas quickly shifted from a dominant to subordinate class. As a result, Latinos in Texas have functioned as both immigrants and the colonized. Land ownership among Latinos became more and more rare overtime, as wealth and land ownership became concentrated among whites in the state.

Just as it is essential to understand the importance of and shifts in property ownership and wealth in the *Rodriguez* case in general, it is also important to understand the role of property within the local context of San Antonio. Importantly, the Edgewood area was at one point farmland owned by whites. By the 1920s and 30s, however, it had become colonia<sup>24</sup> style housing for many migrant workers and other low income working class Mexican Americans. The population of the area grew, and the west side of San Antonio continued to be populated by Latino residents who were restricted from other areas of the city because of financial constraints or restrictive covenants. In this way, property ownership in San Antonio was racially regulated, providing strong implications for the link between race and property. Although the Supreme Court did not legally uphold this argument, there is strong theoretical basis for an understanding of access to property limiting access to well-funded education. Texas is certainly not the only state that heavily relies on property taxes as a major part of the revenue stream supporting public education. Further, Texas is not the only state where property and privilege more heavily favor whites. Indeed, the importance of attending to issues of property is not isolated to the context of San Antonio or Texas. Many other researchers (Orfield, 1997; Oliver & Shapiro, 2006) have studied this connection between race and property wealth, as well as, the compounding issues of measuring and comparing accumulated wealth in

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<sup>24</sup> “*Colonia*” is a Spanish word that most closely means neighborhood or community in English. However, when used in the context of the United States-Mexico border, the term takes on an additional significance. A “colonia” is defined as an unincorporated residential area within 150 miles of the United States-Mexico border that houses low and very low income residents. Colonias typically have limited or no access to basic amenities such as water, wastewater, electricity, gas, trash collection services or adequate roads. While poverty is a pervasive issue along the border as a whole, the colonias are an example of extreme poverty and structural paucity (HUD, 2009; Border, 2009; Office, 2009; Texas Border, 2009; Texas Colonias, 2009).

understanding the extent economic differences within the United States. As long as property taxes play an important role in funding schools, and as long as school district boundaries remain tied housing patterns, attention to property ownership remains important.

In addition to literal ideas of property, it is crucial in this analysis to interrogate more figurative concepts of property and the historic links between race and property. In terms of constitutional and legal protections in the United States, we are a country that protects property rights more than civil rights. “When confronted with the decision between White racism and injustice, the framers of the Constitution chose racism and the rewards of property” (Bell, 1987, p. 214), and “the origins of property rights in the United States are rooted in racial domination” (Harris, 1993, p. 1716). Beginning with classification of Blacks as property during slavery, ideas of white identity and property became linked. To be white, and to have the property of being white, meant freedom and status as human beings. Similarly, the conquest of native peoples and the land they occupied, also reified whiteness as a property interest. Whites, due to their perceived superiority, could take and possess land from native peoples. The physical act of possession and property rights based on possession was defined to only include white cultural norms and supported an ideological belief that whiteness is valuable and is property (Harris, 1993). While Harris does not specifically include the taking of land from Mexican residents in Texas, the same principles apply.

Issues of whiteness as property for Latinos, however, are more complex. Historically Spanish colonizers were complicit in taking land from native peoples in the



Americas, as were as were other white colonizers. Native lands became Spanish territory, Spanish land became Mexico following the revolution, and Mexican land became Texas and ultimately United States territory. This political shift of dominance in possession of the land also corresponds to racial hierarchy and ownership of property. Latinos in Texas experience both the physical loss of property, and the loss of whiteness as property.

Haney Lopez writes that “‘White’ has commonly stood not only for members of the White race but for a set of concepts and privileges associated with it while Black has been defined by the legal denial of those privileges” (1996, in Lynn & Parker, 2006, p. 263). With this understanding of whiteness as connoting privilege, it is easy to understand whiteness as the designation of property as well. Harris writes at length about this understanding of the connections between race and property and how societal understandings of property and of racial structures have changed over time. The concept of whiteness as property is unified under characteristics of being an "illegal legitimization of expectations of power and control that enshrine the status quo as a neutral baseline, while masking the maintenance of white privilege and domination" (1993, p. 1715).

Because of both societal structures in the United States are based on racial difference and because Latinos do not neatly occupy constructed categories of race, understanding whiteness as property in a Latino context is important. Throughout the legal history of Latinos in the United States, there has been a struggle to obtain privileges of whiteness. Some legal strategies have employed “the other white” argument, ultimately arguing for the continuation of racist practices while claiming favorable

application of these practices for Latinos due to their white racial status<sup>25</sup>. Other strategies argued for Latinos to be protected as a separate and distinct group<sup>26</sup>. While early on in the *Rodriguez* case there are stronger arguments for protections along racial lines, in the late stages of the case arguments seemed to drift back to status quo kind of thinking that embrace rather than challenge issues of property. By not making arguments more strongly based on race, the case in effect legitimizes notions of whiteness as property. In the case as presented to the Supreme Court, the focus on the protection of class seems to accept racial discrimination and white privilege. Even though statistical evidence presented in the case by Berke and Morgan provided data and analysis that links low property wealth to lower school expenditures and higher percentages of black and Latino students, this was largely ignored by the judges, and prompted a change in tactics from Gochman and his colleagues. When the courts at both levels rejected this line of argumentation, they also rejected a claim that Latinos are entitled to an equal distribution of property and wealth personally or for funding schools. Education then is an aspect of property, and whites have greater claim to quality education than nonwhites.

In the *Brown* decision,

"The Court refused to extend continued legal protection to white privilege, it simultaneously declined to guarantee that white privilege would be dismantled, or even to direct that the continued existence of institutionalized privilege violated

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<sup>25</sup> For example, many early school desegregation cases made arguments based on this principle. For more details see Haney Lopez and San Miguel.

<sup>26</sup> *Hernandez v. Texas* is a clear example of this approach. More recent cases involving school desegregation and bilingual education have adopted the strategy.

the protection rights of Blacks. In its unwillingness to do so...the Court failed to address the full measure of the harm. A very real aspect of injury was that legalized race segregation structured material inequalities into all socioeconomic relations and institutions, including publicly funded schools" (Harris, 1993, pp. 1751-1752).

While recognizing that separate meant unequal, the decision "failed to expose the problem of substantive inequality in material terms produced by white domination and race segregation" (Harris, 1993, p. 1752). In one respect, the Supreme Court broke down an older understanding of whiteness as property, but it allowed this concept to flourish in a more subtle form. Similar problems emerged in the Latino legal context surrounding desegregation and bilingual education, as well as, in issues of school finance. Even in Latino legal victories white privilege is protected, and in court losses, like *Rodriguez*, it is evident that the socioeconomic segregation that privileges whites is endorsed by denying that the legal issue exists. In effect by making a class-based argument, the *Rodriguez* lawyers also emphasized the strategy of colorblindness and an abandonment of race consciousness claims present in previous decades of litigation and Civil Rights law. By establishing colorblindness as normative, protection of property interests in whiteness are accomplished. To say that race does not matter, or to accept that a race based case would not win before the Supreme Court, essentially accepts the framing of colorblindness. Historic definitions of race incorrectly linked race and inferiority. New colorblind definitions of race deny "the real linkage between race and oppression under systematic white supremacy" (Harris, 1993, p. 1768). Though different, both support subordination

based on race. As it applies to this school finance case, the legal strategies employed by Gochman, Yudof, and Spector that minimized the attention to claims of race based inequality in school funding inadvertently supported concepts and legitimization of whiteness as property. This is not to lay blame solely on the lawyers. A more "colorblind" approach may have been used in hopes of being more favorably received by the Supreme Court justices, many of whom seemed to have already adopted colorblind perspectives. However, whether deliberate or unintentional, selection of this tactic also supported continued racial oppression. Additionally, in my opinion, one of the lasting implications of the *Rodriguez* case is the continued lack of inclusion of racial discrimination as it pertains to school finance issues. Over forty years later, school finance policy and litigation continue to embrace colorblind notions of funding schools and support whiteness as property.

### **Incrementalism and Interest Convergence**

Another element of CRT and LatCrit that closely applies to our understanding of this school finance case is the idea of interest convergence. Derek Bell explains interest convergence as "Significant progress for African Americans is achieved only when the goals of Blacks are consistent with the needs of Whites"(1987, p. 211). In describing this concept, Bell offers a critical examination of the civil rights movement as a whole. He argues that granting civil rights concessions by the white dominant elite had less to do with activism or legal victories on the part of participants, and rather was essentially a face saving technique by those in power. Other dominant and powerful nations of the world have begun to look unfavorably on the United States and its overt and socially

accepted racist practices. Civil rights provisions went into effect, Bell argues, to maintain favor with other nations and to protect the economic interests of the United States abroad. He goes on to describe the *Brown* decision and following desegregation legislation as a Cold War tactic (Bell, 1987; Dudziak, 1988). Although interest convergence is specifically presented as an understanding of Black-White racial history, the concept is applicable to understanding the Latino context as well. While this dissertation research is narrower in focus, elements of interest convergence can clearly be seen when examining school finance litigation and the legal history of Latinos in the United States.

As discussed in chapter two, the concept of interest convergence theorizes that the achievement of racial equality will be accommodated only when it converges with the interests of whites (Bell, 1987). As such, the notion of interest convergence goes hand-in-hand with the idea of incrementalism. In addition to those in power seeking to maintain the power, and only granting rights to support groups that ultimately benefit those in power, the courts and legislative bodies are designed to prolong that process through slow, deliberate, bureaucratic processes of incrementalism. The courts, as an institution, are slow by design. This idea is commonly discussed with regards to CRT and LatCrit by focusing on the limitations of court victories and the common result of legislative bodies in tearing down these victories in minimizing the impact. While some of this applies here, these ideas are most salient when extended to understanding the lasting impact of legal losses such as *Rodriguez*.

Incrementalism is demonstrated by an examination of the sheer length of this case. As previously mentioned, the case was first filed in 1968. The case remained at the

district court level for a great deal of time. The judges granted a two-year waiting period to the Texas Legislature as an attempt to encourage that political body to take action. Upon appeal, the Supreme Court heard oral arguments in this case in 1972, and opinions were handed down in 1973. From beginning to end, this case lasted over four years. This length of litigation is not uncommon. However, it is precisely the amount of time that I call into question. For many of the initial plaintiffs, their children were no longer in school by the time a final decision has been reached. Thus, when relying on the court, individual participants must often understand they are not taking action for their children alone. Individual participants must also accept the length of this course of action and remain dedicated to the cause for the entirety of the process.

Following *Rodriguez*, it took almost 10 years before the first *Edgewood* case was filed in Texas in the state court system. Not surprisingly, none of the original plaintiffs remained active in subsequent legal action regarding school finance except for Demetrio Rodriguez. The tedious and cyclical nature of Texas school finance litigation eventually resulted in a plan based on principles of recapture. A total of four rounds of court cases were filed and argued, and reciprocal legislative plans for financing schools had to be developed, argued, and passed in the state legislature before the general plan that exists today was ultimately upheld in 1996. Two additional rounds of litigation have followed, and the plan itself has been changed through legislative action as well. In the most recent case, *West Orange-Cove v. Neely*, MALDEF argued on behalf of low wealth districts that the Texas system did not supply an adequate amount of money to properly educate children in the state of Texas. The Texas Supreme Court, however, only ruled that the

\$1.50 tax cap that was in place created an unconstitutional statewide tax. Following this decision, the state legislature passed a law reducing the tax cap to \$1.00 in 2006. In effect, the court system in Texas has been contending with issues of school finance for over 40 years now. Yet these courts have also ruled that the funding system in Texas is equitable and adequate in accordance with the Texas Constitution. After 40 years, gaps remain as avenues for legal recourse are vanishing. It is the slow, deliberate nature of incremental change within the courts that remains problematic for students of color in particular.

This extended process of litigation also illustrates interest convergence at work. The various school finance cases had to be continually refilled and various legislative responses challenged and ripped apart. Everyone involved had to be appeased, but no solution was deemed final until those in power allowed for that possibility. A solution was reached only when everyone had reached a saturation point, and it would no longer be beneficial to white dominant power structures to prolong the process any further. At that point they consent to a solution least detrimental to their own power. Additionally, since 1996, the white dominant power structure has also worked to chip away at the original legislative solution of recapture. As a result, the system is less equitable now than it once was. That the outcome of the last *West Orange-Cove* case was only a reduction in property taxes is another example of interest convergence. Of everything that was argued in the case, only the portion of the case that dealt with the issue of a statewide property tax was upheld. The legislative response to lower property taxes benefitted all property owners in the short term, but was more beneficial to wealthier

property owners. Most property owners likely looked favorably on this reduction, thus consented to this as a policy solution. However, the extension or creation of new regressive taxes disproportionately puts the burden of school funding back on low wealth residents and residents of color in Texas. Additionally, over reliance on state surplus funds to cover the gap created between revenue generated and money needed to fund schools, has lead to extreme budget solutions for the legislative session this year. I argue that these cuts are less damaging to white students, and that overall changes to the system have benefited white interests, consistent with ideas of interest convergence.

### **The Problem of Problem Definition**

When individuals or groups opt to take legal action, they are giving the court the authority to make a decision. When the legal actors, such as lawyers and judges, then define the problem of school finance as one that does not include race, that is an outcome that must be accepted because legal action itself legitimized the authority of the court. Al Kauffman discussed attempts to include race in the legal and political discussion about school finance. He outlined the process used to make a stronger race based argument in approaching *LULAC, et al. v. Richards*, a higher education school finance lawsuit against the state of Texas filed by MALDEF and other groups. Even though he and his team re-read the *Rodriguez* opinions multiple times and worked to fill in the gaps and answer the challenges as identified by the courts, the Texas state courts again failed to recognize the race based component connected to issues of funding. After two failed attempts at including race, legal tactics regarding school finance litigation in Texas have not focused on racial issues (Kauffman, 2011). Additionally, school finance litigation in other states



also continues to use similar language and legal problem definition that stem from the *Rodriguez* case and decision. The result has been a widespread presence of school funding issues in the courts, coupled with a lack of widespread attention to corresponding racial issues.

Given the definition of the problem as one of economic inequity made addressing research question two, which focused on how race was discussed vis-à-vis the *Rodriguez* case, challenging. Essentially the issue of race was not being discussed. Marshall writes that “power, bias and values are embedded within institutions, such as legislatures, family and schools in ways that affect what we do and do not *see* as problems; some become ‘areas of silence’ (Anderson, 1990 in Marshall, 1997, p. 3). The courts also function as such an institution, and in the context of school finance, race has become an area of silence. Recognizing what is missing from how policy problems are defined requires comprehension of how traditional beliefs and approaches to policy and research construct normative understandings. Marshall’s work articulates the link between traditional policy analysis and normative white male ideology. This dominant perspective is present in both traditional research methods and in traditional policy analysis. “Knowledge, laws and traditions which developed in a public discourse dominated and peopled by white males has left us with constrained methods of policy analysis” and incomplete understandings of policy issues (Marshall, 1997, p. 3). Typically, policy studies are also judged according to these traditional perspectives, as well. Rational methods lead to rational interpretation of fact and a dismissal of approaches that fall outside of these norms. Not only is this problematic for researchers or policy analysts who desire to

employ other methods of analysis, it is a perpetuating cycle that benefits dominant structures. Appropriateness of examination is ultimately judged by dominant values, and generally, only traditional and rational approaches are rewarded with favor and acceptance. Traditional perspectives of neutrality or objectivity in research are reinforced by continued objective, bias-free research and policy analysis. Dominant values shape what is viewed as important, how these problems are defined, and the relevance of questions, issues, and results of research and policy (Scheurich, 1994). In school finance, economic approaches and arguments are prevalent and valued, while race is not discussed or considered relevant.

As a result, some issues are never viewed as issues. While Marshall's work applies critical feminist perspectives to policy analysis, bringing critical attention to political studies of other neglected areas is also necessary. Dismantling traditional policy paradigms requires that scholars attend to those "areas of silence" including gender, race, sexuality and many others. Critical policy analysis through CRT and LatCrit is one way of working towards this, yet wider attention often comes only when there is a strong enough societal interest or ideological catalyst to raise awareness. These political shifts or "policy windows" (Kindgon, 1984) occur when policymakers respond to socially identified problems. Following *Brown*, such a policy window opened for attending to issues of race in education. School integration along with other federal policies directed at alleviating racial inequalities were common but did not go far enough in rectifying racial disparity (Bell, 1987; Tate, 1997). By the time *Rodriguez* was filed and argued, it is clear that this window of political opportunity was closing and many liberal white

supporters of the Civil Rights movement had begun to focus on the Vietnam War or other areas of social interest. Either recognizing this shift or being caught up in the shifting political currents, Gochman presents a different case than he might have even a few years earlier. Coupled with this case specific discussion of problem definition, it is also necessary to place this case within a broader context of a national policy shift away from discussing issues of race. The absence of race in this particular case was not an isolated incident, but rather an example of the general disappearance of race discussion in policy realms.

Attention to policy windows and national context, also extends to understanding problem definition in a contemporary context. Political attention and definitions of political issues continue to lack attention to race. Not only was the *Rodriguez* case not centered on racial inequality, school finance policy and litigation continues to define funding issues without an inclusion of race. A period of race conscious legal argumentation was replaced by legal and legislative discussions of ethnicity (Fenton, 2003) or socioeconomic status. In not talking about race explicitly or by using geography (Sracic, 2007) or economic status (Lynn & Parker, 2006) as proxies for race, we continue to engage in political and practices that ignore race-based issues.

Legal cases and policy problems are social constructs that are built within contexts and through discourse. While lawsuits and policy may appear to be objective, this construction and problem definition legitimizes certain concepts and ways of understanding while excluding others (Young, 1999). In analyzing policy, many analysts are unaware of underlying norms and assumptions that govern the construction and

definition of problems. They are taken for granted, and therefore not questioned or critically analyzed. Instead of taking that type of traditional analytical approach, I chose to examine why race was absent from this case.

### **Discussion: Making Sense Beyond the Analysis**

After analyzing the data and constructing narratives within this project, issues remained that warrant further attention. Essentially, this discussion is a way to make sense beyond the data and beyond the theoretical framing used in analysis. Knowledge construction is included here along with a discussion of issues of centralizing race in policy discourse.

#### **Whose Knowledge Matters?**

According to the tenets of CRT used in this study, “critical race theory insists on recognition of the experiential knowledge of people of color and our communities of origin in analyzing law and society. This knowledge is gained from critical reflection on the lived experience of racism and from critical reflection upon active political practice toward the elimination of racism” (Lawrence et al., 1993, p. 6). One critique of using experiential knowledge, particularly counter narratives, stems from differing opinions on objectivism and subjectivity in knowledge formation. In the critique of counter narratives, dominant narratives are understood to be true and objective, while stories that are counter to these understandings are dismissed because they are biased and subjective. “It is interesting that the critics do not acknowledge that Eurocentrism has become the dominant mind-set that directly affects the mainstream stories told about race” (Delgado Bernal, 2002, p.119-120). In other words, these same critics who challenge race-based

counterstories accept Eurocentric narratives, failing to see flaws with dominant narratives because they are so normalized. Further, “majoritarians tell stories too. But the ones they tell—about merit, causation, blame, responsibility, and social justice—do not seem to them like stories at all, but the truth” (Delgado, 1993, p. 666). They believe their stories are based on facts and fail to see the subjectivity of their own stories. This raises the question of whose knowledge matters?

Critical Race Theory and Latino Critical Race Theory value the experiential knowledge of people of color, methods of storytelling, and interdisciplinary approaches to understanding. These same ideas are not always valued in policy, law, or by more traditional members of the research community. In analyzing and trying to understand whose knowledge and what understandings the Supreme Court valued, I continue to be amazed at the emphasis in importance given to economic arguments. The stories and experiences of Edgewood parents, residents, and students are glaringly absent from the court record. It is my opinion that the inclusion of such stories from Demetrio Rodriguez, Joe Bernal, Albert Peña, Rosie Castro, José Angel Gutiérrez, and others is a contribution to a more complete understanding of the case in line with the core values of LatCrit. Yet, their lack of inclusion in court documents and discussions brings to light their perceived limited importance by the lawyers or by the Court. In other words, these stories did not matter. The Court did not value these stories and attention to context as important forms of evidence in this case, yet economic arguments were key.

Instead, Gochman makes the case about wealth. With the help of Yudof, his decision was to pursue this line of argumentation instead of race based or other strategies.

His wealth argument uses evidence from legal precedent and statistical data from Berke and Morgan as valued forms of knowledge. Charles Allen Wright's decision to go after the economic theories of Coons, Clune, and Sugarman instead of just the facts presented in the case results in Wright fighting a case against a non-participant. He values and challenges published economic theory instead of even bothering to attack the statistical context of the case, let alone the social and historic context. Finally, Justice Powell uses the Connecticut study instead of statistics presented the case in the majority opinion. He dismissed the data accumulated by Berke saying that it was only a sample, while the Connecticut study gathered information on the state as a whole. The critique was not a question of sampling methodology or data gathering techniques or tools of analysis, but simply that it was a sample rather than the population. To dismiss Berke's data for this reason is unsound. I argued that he used statistics that supported the majority position, rather than statistics and economics that spoke the "truth". Valued knowledge before the Court was evidence that fit their mental model for what was an acceptable form of knowledge, but also evidence that supported the conclusions the Court wanted to draw. In part, this ruling exemplified the changes in Court composition, and the types of evidence or arguments that were deemed important and persuasive. Further, the use of the Yale Law review source over other more likely sources offers a perspective that the Supreme Court wanted to limit further extension of 14<sup>th</sup> amendment protections and made a stand to leave school finance and education beyond the scope of constitutional protection. Each of these men operated in a relative position of power and had a choice in what information to present or accept. Because of this power, each was able to decide

what knowledge mattered and acted accordingly. The voices of participants did not enter into the case because these men did not decide to include them. Their experiential knowledge did not matter, but selective economic positions did. In analyzing the findings of this dissertation, there is a clear and obvious disconnect between the community and social context surrounding the case and experienced by Edgewood residents in the way the case was discussed. In my understanding, this gap exemplifies the basic tenets in CRT and LatCrit that context and lived experience matter. Rather than being extraneous, context needs to be made central.

### **Centralizing Race**

Was this case really about race? As someone interested in school finance history, but ultimately an outsider and not an active participant, I have often wondered why the *Rodriguez* and subsequent *Edgewood* cases were not more focused on race. In reading about the cases and the court documents, I did not understand why race was not emphasized or even clearly included as a component of the argument against an inequitable school funding system. While I see clear implications for including race in the argument and clear connections between racial and social contexts and issues of funding, as I near the end of this dissertation process, I am left wondering whether or not participants viewed the issues of the case in racial terms.

In some respects, the rise of the Chicano movement in San Antonio during the time of the *Rodriguez* case is important to the discussion of race. One significant difference between Chicano activism and previous generations of activists was a clear claim of a “Chicano Identity” rather than a continuation of working within traditional

notions of Mexican American “whiteness” (Oropeza, 2005; Haney López, 2003). However, even this is a generalization that does not apply to all aspects of the Chicano movement. Primarily college students or those who were college bound, such as MAYO members and those in positions of leadership in the various Chicano organizations likely embraced this race consciousness and Chicano identity. For most farmworkers or barrio residents, racial identity was not the central organizing principle. Race was not the primary issue for Beret youth either. As Montejano describes, racial and ethnic identity as Chicanos was taken for granted with these youth. It only became powerful when combined with unifying ideas of *carnalismo*. “In this instance, the movement signified not a switch in race-ethnic identity; but rather an empowering redefinition or rearticulation of that identity” (2010, p. 268). When thinking of the various influences on the *Rodriguez* case, it is quite possible that case itself was not about race for the participants. After talking with Demetrio Rodriguez, it seems likely that he was fighting a specific issue and on behalf of his children, not acting to eradicate racial inequality. In some respects, it is hard to care about larger issues of race and identity when your children’s school is infested with bats or uncertified teachers are teaching them in over crowded classrooms. Thus, for the complaintants, this case may have been more focused on a system that did not provide for the educational needs of their children, than an issue of racial discrimination. For Arthur Gochman, this case may have started out as based on issues of civil rights. However, as the case progressed and as the composition of the Supreme Court changed, he and his legal colleagues developed a strategy based less on race and more on arguments that might be palatable to the justices. Essentially, they too



took a pragmatic approach rather than maintaining a case that made race based ideological arguments. For Charles Allen Wright, the case was never about race and even had little to do with the issues in Edgewood. Wright presented a case that attacked economic arguments by three professors in California, and he won.

Regardless of whether race was or was not a primary issue for participants, race was at the heart of the case. Race based inequalities in income, housing values, educational opportunities, and employment rates were prominent issues. Race played a role in the formation of the district, and other contextual factors of the case. However defined, race was also central to activist efforts in San Antonio. In some ways, this makes race the elephant in the room of school finance. When the case is considered in its wider social and historical contexts, race seems clearly important to all of the factors that prompted the case. However, it remains glaringly absent in the way the case was presented to the courts and the way the case was discussed. Just because the case was not framed by race, or the problems of school finance were not defined by race, does not mean that race is not a central issue. Ultimately the only way to address factors of racism is to actually talk about race. Just as Critical Legal Scholarship “questioned the role of the traditional legal system in legitimizing oppressive social structures” it also failed to account for and incorporate discussions of race in its critical framing (Yosso, 2003, p. 71). The legal strategies used on behalf of the *Rodriguez* plaintiffs were similarly well intentioned, but neglected to call attention to race. This case and other legal avenues that do not include histories, stories, and lived experiences of those who are institutionally oppressed by institutionalize racism perpetuate the absence of race in policy discussions

(Delgado, 1995; Ladson-Billings, 1998). "Race consciousness, I contend, must be taken into account in efforts to understand hegemony and the politics of racial reform."

(Crenshaw, 1998, p. 1335). CRT and LatCrit offer one way to call attention to race and seek race conscious political change.

### **Conclusion**

In writing about concepts of Critical Race Theory, Bell states that he is contributing to the intellectual discussions and seeks to "promote clinical activism to achieve racial justice" (1987, p. 211). The historic examination and critique of both civil rights cases and legal strategies employed sheds light on the conclusion that the path of political action taken or not is the only option. Bell concludes that the civil rights movement could have done more, had it followed a different route. Rather than leaving this analysis of civil rights and legal strategy in the past, I think this historic examination is useful in understanding how past actions and strategies manifested, but it also informs our future policy directions. If, as Bell states, the path taken was not the only option, then the way we move forward in school finance policy and other policy issues is open.

Because this dissertation project is grounded in CRT and LatCrit frameworks, critical policy analysis also factors heavily in fulfilling the stated research purpose. Critical policy analysis is meaningful because it is a method of analysis that reveals the social ideologies and structures of oppression that govern policy. In this critical analysis, elements of property, interest convergence and incrementalism, and problem definition disrupt traditional assumptions about school finance policy. Further, understanding was

also informed by discussions of knowledge construction and the need to centralize race in policy discourse.

## CHAPTER 6: SUMMARY AND IMPLICATIONS

The overarching purpose of this dissertation was to examine the ways that race has been included and/or excluded from school finance policy, particularly within the state of Texas. To explore this broad purpose, this work focused specifically on the *Rodriguez v. San Antonio Independent School District* school finance lawsuit. This case was deliberately chosen for a myriad of reasons. In part, this case is significant because it was the first school finance case in the state of Texas and also because it has been the only case to make a challenge to school finance policy at the federal Supreme Court level. The selection of the *Rodriguez* case provided the opportunity to examine both contextual and temporal boundaries concerning race within Texas school finance policy.

The analytical process used in this dissertation was guided by questions concerning the factors that prompted the Rodriguez family to bring a suit against San Antonio area school districts, the context in which this action took place and evolved, and the ways that race was discussed in the case. The approach I followed to investigate these questions and these purposes was guided by the basic principles of Latino Critical Race Theory. I employed historic comparative methods, including archival research and oral histories, in this investigation and analyzed the findings according to ideas of critical policy analysis using a LatCrit framework. The findings of this dissertation offer support for the examination of school policy in ways that are conscious of race and suggest guidance for continued research and policymaking that is consistent with this understanding.

### Summary of Themes

In this dissertation, I explored two questions regarding school finance. My first question focused on the factors that prompted the *Rodriguez v. San Antonio* school finance case, and the second explored how race was discussed in the case. From this research, several themes for each question emerged. First, in order to understand the importance of this case as a landmark legal challenge to school finance policy, it was important to understand the context surrounding the case and to develop an understanding of why this lawsuit was first filed. The first theme regarding what prompted the case was economics. Economic arguments and understandings are common to school finance policy, and the *Rodriguez* case was no exception. Statistical data was presented to the court as evidence supporting the claims of an inequitable funding system that illustrated income, property wealth, tax rates, and per pupil expenditures. Additionally, descriptions of school equipment and facilities and less tangible descriptors of school quality were elements within this economic theme. These economic factors both prompted the case and were used as evidence before the courts.

A second theme that emerged was the social context of San Antonio. Neighborhood geography, including the development of the Edgewood area, the residential housing patterns in San Antonio of both race and wealth, and local poverty was one aspect of this theme. Related, are the understandings of housing conditions. Issues such as flooding, a lack of utilities, such as running water and paved streets, and housing quality were all challenges. Education was another theme within this

understanding of social context. Limited parental education levels linked to limited educational opportunities, and many Latino students faced challenges of language and segregation. Finally, the context of San Antonio was important because of both city level issues of segregation and discrimination combined with the growing Latino middle class in San Antonio. These four sub-themes contributed to the conditions of social context that prompted this school finance case.

A third theme that prompted the filing of the case was the multiple mechanisms of activism in the San Antonio community. Labor movements, traditional activist groups, such as LULAC and the American G.I. Forum, and the rise of Chicano activism during the time period surrounding the case shaped activism in San Antonio. Additionally, local interest groups formed and took action in areas such as school finance.

To answer how race was discussed within and around the case, I examined court documents and media sources. The first theme in this areas focuses on official discussions of race. Race was emphasized more at the District Court level than at the Supreme Court level. In these official discussions of race, race is often excluded and strategy for how and why this exclusion occurred is discussed. In addition to these official discussions of race, a second theme of public discussions of race emerged. Newspaper articles and oral histories were the primary sources for this theme. Public discussions of race and this case occurred differently in national media compared to local newspapers. National papers tended to use language similar to the official court language, while local papers framed the discussions of the case within the local context. Even so, the case was not clearly understood or linked with local activism and raced

based activism, and the school walkouts and the response to the Supreme Court decision are two key areas of this public discussion.

### **Summary of Analysis**

The analysis presented in this dissertation revealed understanding of this case through the lens of Latino Critical Race Theory. By looking at the factors that prompted the case and the discussions of race with specific attention to race, critical themes of property, incrementalism and interest convergence, and problem definition emerged. Analyzing issues of property reveal that property is both tangible and theoretical in this school finance case. First, there are the monetary connections to property that are complicated by historic understandings of who owned property in Texas. Ownership of property corresponds to a shift in power and dominance from Latinos to Whites. Second, this analysis reveals theoretical understandings of whiteness itself as property. Incrementalism and interest convergence can be seen through the slow and deliberate nature of the court system and legislative action. When policy solutions are reached, they occur in ways that benefit existing white power structures while seeming to benefit students of color. Finally, by looking for the inclusion of race in this case it is clear that the problems of school finance were not constructed to include race as an issue. If the problem is defined to ignore race, then policy solutions will ignore race as well.

This analysis was firmly rooted in the tenets of CRT and LatCrit. The use of this framework is useful as means for critically examining school finance policy in ways that go beyond traditional economic based understandings of school finance. The bulk of research in this area pulls from economic theory or objective legal studies. By only using

these rational and positivistic approaches to understanding school finance issues, we neglect issues such as race and fail to generate policies that matter for all students. In general, critical perspectives provide different ways to view an issue. Because of the history of marginalization and oppression in this country, it is particularly important to include divergent opinions in policy dialogue that both include marginalized people and challenge traditional views. Understanding from a variety of perspectives creates a richer understanding of problems and policy issues.

### **Limitations**

The topic of school finance has been studied extensively by economists, educators, and legal scholars. By attending to issues of race and applying LatCrit, this dissertation has made a contribution to this body of research, but even though it remedies some limitations of previous research, it was also limited in various ways that need to be addressed in the future. First, because there are few studies that examine school finance issues and policies in critical ways, more research is needed in this area. Indeed, even a deep look at an individual case, is still an examination of a single case. More research of this nature would provide comparable stories and findings that would collectively enhance the fields understanding of issues of race and school finance. Secondly, because race has been ignored in school finance discussions in the past, one could argue that it was overemphasized in this research. Race is certainly not the only factor that contributes to funding inequalities. Just as it should not be excluded from discussions of school finance, race should not necessarily be taken in isolation either. CRT and LatCrit



emphasize understandings of intersectionality, or the multiple forms of oppression, and hopefully this was evident in this research.

### **Implications**

The findings of this dissertation also have implications for the broader policy context. This historic analysis of the *Rodriguez* case is important in a contemporary context because the racial inequities that were operating within the *Rodriguez* case continue to exist, and policy language in Texas and other states still fails to meaningfully attend to issues of race. *Rodriguez* simply set the stage for continued challenges to funding schools in equitable ways. While economic and legal histories are important for understanding school finance, LatCrit provides another way for centering discussions around the racism embedded within policies and for providing a more complete picture of the history and context of issues like school finance. In addition to understanding implications for policy, this dissertation is one of only a few projects that applied critical policy analysis in the area of school finance, creating implications for further research, as well.

### **Implications for Policy**

First, It is important to continue to think about and discuss race in the policy world. Both future litigation and legislation should attend to issues of race. This implies that we need to become more race conscious in the way we think about policy issues and solutions. It has become commonplace to assume colorblind perspectives or to use socioeconomic status as a substitute for talking about race, yet these approaches simply mask problems rather than work to eliminate them.

Another important implication for policy is to begin to go beyond economics for thinking about school finance. For too long, economics has been viewed as the only method for understanding school finance and the only legitimate discipline for determining solutions to problems in how we fund schools. If we have learned anything in recent political history, it that economics is fallible. On the heels of a major crisis in housing, banking, and the worst recession since the Great Depression, schools are now facing enormous budget cuts across the country. Now is the perfect time to recognize the limitations of purely economic approaches and to use LatCrit and other critical or non-traditional understandings to inform the way we think about funding schools.

### **Implications for Future Research**

In this dissertation, I focused on one specific case and worked from a Latino Critical Race Theory approach. First, I think future work could focus on school finance history in Texas beyond this case. I would be interested in examining the finance cases that followed *Rodriguez* and the work of groups like the Intercultural Development Research Association or The Equity Center who work to achieve school finance equity. Additionally, I think applying critical frameworks to litigation and school finance reforms in other states would be another important area for research. States like New Jersey and Kentucky have histories of using the courts as a mechanism for change in funding, and understanding these contexts would be beneficial. Finally, in addition to continued research in the area of school finance litigation and history, applying critical frameworks to the mechanics of school finance is key. It is important to understand issues of per pupil

expenditures and school finance formulas from frameworks other than economics, especially if equity is our goal.

This historic analysis of the *Rodriguez* case is important in a contemporary context because the racial inequities continue to exist and policy language still fails to meaningfully attend to issues of race. *Rodriguez* simply set the stage for our ongoing problems regarding how to fund schools in equitable ways. While economic and legal histories are important for understanding school finance, LatCrit provides another way for centering discussions around the racism embedded within policies and for providing a more complete picture of the history and context of issues like school finance.

### **Concluding Remarks**

In this study I have shown that the *Rodriguez v. San Antonio Independent School District* school finance lawsuit is largely void of discussions of race despite the racial context that initially prompted the case. Deeply exploring the context of San Antonio, the economic disparities, and the social activism among member of the Latino community reveals systematic and historic race based foundations of inequality that carried over to policies dictating the ways that schools were funded. When these factors are compared to discussions of the case in legal contexts and in public media, it is striking that racial inequity was not articulated as a part of the policy issue. Critical analysis of this case and of school finance policies reveals that in efforts to improve school funding we must be mindful to include race, be aware of how we define problems to include or exclude all students, and to continue to use critical methods towards these ends.

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## **Vita**

Erin Denise Atwood was born in Dallas, Texas. She is the daughter of Sam and Shirley Atwood and the sister of Wade and Travis Atwood. After graduating from Spearman High School in Spearman, Texas in 1996, she entered Texas Christian University, where she received a Bachelor of Science in Elementary Education with a reading specialization in 2000. After working as a 6<sup>th</sup> grade science teacher, she entered The University of Texas at Austin, where she received a Masters Degree in Curriculum and Instruction through the Science and Mathematics Education Program in 2005. From 2005-2006 she worked as a Research Fellow at Texas A & M University on a National Science Foundation funded project looking at science teacher recruitment and retention. In 2006, she entered the Graduate School at The University of Texas at Austin to begin working on her doctorate. She is currently employed by SEDL and resides in Austin, Texas, with her husband, Brian Fortney, and dog, Angus.

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